



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

250

CRM-M-25557-2026

Date of decision :12.05.2026

Date of uploading :12.05.2026

Saurabh

.....Petitioner

Versus

State Of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Shokeen Singh Sharma, Advocate for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

SUMEET GOEL, J. (ORAL)

1. Present 2nd petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.364 dated 09.10.2021 under Sections 302 & 379-B/103(1) & 303(2) of BNS and Section 25 of Arms Act, and Sections 395, 396, 397, 412, 212, 201, 120-B & 109 of IPC/310(2), 310(3), 311, 317(3), 249, 238, 61(2) & 49 of BNS and Section 27 of Arms Act, registered at Police Station Asaudha, District, Jhajjar.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

"To the SHO Police Station. Asauda. Sir, I request that I am Ashok Kumar, son of Balbir Singh, caste Jat, resident of village Chara, Tehsil Bahadurgarh, District Jhajjar. I am about 50 years old and I work in agriculture. We are five brothers. The youngest among us was Bijendra @ Matru, whose age was about 40 years. He used to, supply bricks from the kilns. Yesterday, on 08.10.2021, at around 12.00 noon, my younger brother Bijendra @ Matru left the house in his white Scorpio car whose



registration number was HR- 13R-3779 and took my neighbour uncle Dayakishan, son of Tekram, from home in his Scorpio and went to Rohtak Old Sabzi Mandi Police Station. There was a complaint against my younger brother Bijendra @ Matru's brother-in-law, Naveen Kumar, son of Chand Singh, R/o Ismail village, currently residing in Chandi village. After getting the case resolved there, my brother Bijendra @ Matru and my neighbor's uncle, Dayakishan, arrived at the bus stand in Chara village in the same Scorpio car around 8:00-8:15 p.m. Dayakishan then went to his home and left and my younger brother, Bijendra @ Matru, was coming home in his aforementioned Scorpio. Our house is located on the Chodi Road near the Charra bus stand. About 500-600 meters from the Charra bus stand, my younger brother, Bijendra @ Matru, was found lying unconscious on the road by Pravinder, son of Mahendra, from our village. Seeing this, Pravinder ran back to his home and encountered Rajbir, son of Ajit, from Chharra village, who had also arrived at the same time after receiving the information. The three of us then picked up my brother, Bijendra @ Matru, from here, put him in Rajbir's car; and brought him to Kaynos Hospital, Rohtak, for treatment. There, the doctor checked My younger brother, Bijendra @ Matru, had a bullet wound on the side of his right ear, which was bleeding profusely. After examining all this, Dr. sahab declared my brother Bijendra @ Matru dead. My brother Bijendra @ Matru was stopped on the road leading from the Chara bus stand to our house, about 100 meters from the house and 400-500 meters from the bus stand. He was shot near the right ear, thrown out of the Scorpio, and then some unknown person snatched his Scorpio and fled. My brother Bijendra @ Matru died as a result of the gunshot wound. I request you to search for the attackers, recover the Scorpio, and punish the culprits. When we found my brother Bijender lying on the road, his phone was also lying nearby. My brother Bijender @Matru used two SIM cards on his phone. The two mobile numbers are 9813239883 and 9050506222. I request you to have both of the above mobile numbers investigated by a cyber expert to identify the culprits. Furthermore, if I or my family suspect or receive any information about anyone in the future, we will provide you with a written statement on this matter. I request that the case of my brother's murder and the seizure of his Scorpio be resolved as soon as possible. Applicant, Ashok Kumar, son of Balbir village Charra 9991059286, Dated 01-09.10.21."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 13.10.2021. Learned counsel has further submitted that the case in hand is not one based on eyewitnesses. Learned counsel has further argued that the prime evidence available against the petitioner is in the form of recovery of the pistol allegedly used in the commission of the offence in question. Learned counsel also submits that all the prime private prosecution witnesses already stand examined. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by



arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 12.05.2026 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 13.10.2021 wherein after investigation was carried out and challan stands presented on 04.01.2022. Total 46 prosecution witnesses have been cited, but 28 has been examined and 3 has been given up till date. It is thus indubitable that culmination of trial will take its own time. It would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in ***Criminal Appeal No.2787 of 2024*** titled as ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and another***, decided on 03.07.2024; relevant whereof reads as under:-

“19 If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly. howsoever stringent the penal law may be.

21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”



The rival contentions raised by learned counsel give rise to debatable issues which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1 As per custody certificate dated 12.05.2026 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 04 years 6 months and 25 days & is not shown to be involved in any other case.

6.2 Indubitably, the present petition is the 2nd attempt by the petitioner to secure regular bail. The last bail plea preferred by the petitioner was dismissed as withdrawn on 06.02.2024. Keeping in view the entire factual milieu of the case in hand, the extended incarceration of the petitioner, and the snail pace of the trial, this Court is inclined to favourably consider the instant plea for bail. A profitable reference, in this regard, can be made to a judgment of this Court passed in **CRA-S-2332-2023** titled as **Rafiq Khan versus State of Haryana and another**; relevant whereof reads as under:

“10. As an epilogue to the above discussion, the following principles emerge:

I. Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III. For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently



required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV. No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V. In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those



which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

- 9. Ordered accordingly.
- 10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

12.05.2026
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No