



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

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CRM-M-27339-2025

Date of decision: 24.02.2026

JASWINDER LAL

.....PETITIONER

Versus

STATE OF PUNJAB

..... RESPONDENT

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Navnit Sharma Advocate for
Ms. Sharmila Sharma, Advocate
for the petitioner.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

SURYA PARTAP SINGH, J.

1. This petition for bail, which is fifth petition filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed with regard to a case arising out of FIR No.07 dated 15.02.2021. The above-mentioned FIR has been filed for the commission of offence punishable under 302, 307, 323, 324, 120-B, 148 and 149 of Indian Penal Code, Police Station Ghuman, Police District Batala, District Gurdaspur.

2. The above-mentioned FIR came into being at the instance of Hardev Singh, hereinafter being referred to as complainant only. It was stated by the complainant that on 15.02.2021, when his sons, namely 'Simrandeep Singh' (now deceased) and 'Harmandeep Singh' were going home from school at Ghuman, the petitioner alongwith his co-accused armed with *datars*, steel



rod, dangs (wooden stick) and baseball bats, attacked them outside the school gate and inflicted multiple blows on Simrandeep Singh and Harmandeep Singh. As per prosecution case Harmandpreet Singh was armed with a *datar* at the time of the occurrence and he inflicted a *datar* blow on the head of Simrandeep Singh (now deceased). The injury attributed to him is stated to be on a vital part of the body i.e., the head of the deceased.

3. It is the case of the prosecution that in view of above-mentioned statement, formal FIR of this case was lodged and the investigation taken up.

4. Heard.

5. It has been contended by learned counsel for the petitioner that the petitioner is already in custody for a period of more than five years.

6. In addition to above, the learned counsel for the petitioner has also contended that the trial is not likely to be concluded in near future as out of twenty four prosecution witnesses, shown in the list of witnesses, only six have been examined so far. The copies of zimni orders passed by the learned trial Court have also been placed on record, which shows that for more than 09 months not even a single witness has appeared before the learned trial Court for examination.

7. The learned State counsel has controverted the above-mentioned arguments. According to learned State counsel the allegations against the petitioner are quite specific qua the fact that he was instrumental in causing death of the victim. According to learned State counsel prime role has been attributed to the petitioner, and therefore, he is not entitled for the benefit of bail.

8. The record has been perused carefully.



9. A perusal of record shows that in the present case, following are the factors which are required to be taken into consideration for a decision: -

- i) that the petitioner is already in custody for a period of more than 05 years;
- ii) that the conclusion of the trial is likely to take a long time as out of twenty four prosecution witnesses only six witnesses have been examined so far;
- iii) that nothing has been left to be recovered from the possession of petitioner;
- iv) that the detention of petitioner in judicial lock-up is not likely to serve any useful purpose;
- v) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses;
- vi) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

10. In the present case, the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Dataram versus State of Uttar Pradesh and another', (2018) 3 SCC 22, are relevant, wherein it has been observed that "a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have



been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

11. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil Vs. Central Bureau of Investigation and Another’ (2022) 10 SCC 51, are also relevant in this case. In the abovementioned case, it has been observed that “the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.

12. Recently, in the case of ‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2025 SCC Online SC 322, the Hon’ble Supreme Court of India has observed that “if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be



said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that “delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”.

13. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Manmandal and Another v. State of West Bengal’, Special Leave Petition (Criminal) No.8656 of 2023 decided on 14.09.2023 and ‘Rabi Prakash v. State of Odisha’, 2023 SCC Online SC 1109, extended the benefit of bail to the accused, who had been incarcerated for a period of almost 2-3 years and the trial was likely to take considerable time. The above-mentioned benefit has been given by observing that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article-21 of the Constitution

14. To elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as mandated by Hon’ble Apex court in “Balwinder Singh versus State of Punjab and Another”, 2024 SCC Online SC 4354.

15. If the cumulative effect of all the above-mentioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition



deserves to be allowed.

16. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However the above-said concession shall be subject to following conditions:-

- (i) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.
- (ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- (iii) that the petitioner shall not leave India without prior permission of the trial Court.

17. Today it reveals that in this case the petitioner was in custody for a period of 05 years and consecutive dates the witnesses were not appearing before the learned trial Court. The order is silent as to whether any notice was received back either served or unserved. Thus, the learned trial Court is directed to pass a detailed zimni order and also take appropriate steps, if the witnesses are not turning up, so that in cases wherein accused are in custody the trial is taken up expeditiously.

(SURYA PARTAP SINGH)
JUDGE

24.02.2026 Whether speaking/reasoned Yes/No
vipin Whether reportable Yes/No