

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

2026:PHHC:079399



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CRM-M-27471-2026 (O & M)
Date of decision : 20.05.2026
Date of uploading : 20.05.2026

Shahdeen

.....PETITIONER

Versus

State of Punjab

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Dr. Khushbir Kaur Waraich, Advocate for the petitioner.

Mr. Jaypreet Singh, DAG, Punjab.

SUMEET GOEL, J. (ORAL)

1. Present petition is the third attempt, which 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.04 dated 04.01.2025 under Sections 103(1)/3(5) of BNS and Section 238 of BNS 2023 (added later on), registered at Police Station Goindwal Sahib, District Tarn Taran.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Statement of Masoom Ali, son of Nawab Din, son of Chirag Din, resident of Bhinder Kala, police station Khalchia, district Amritsar, age 37 years, mobile number 98784-59225, stated that I am a resident of the above address and work as a laborer. We are 06 brothers and 03 sisters and all of us are simple people and along with our family we live in different places by making camps and earn our living by keeping buffaloes and selling buffalo milk. Our eldest brother

Sadiq, who was about 42 years old, along with his family, lives in a camp near village Miani, police station Goindwal Sahib and along with them other people also live there. All of them earn their living by selling buffalo milk. On the middle of the night of 03.01.2025, Sadiq and his wife started arguing and quarreling over something. As the quarrel escalated, Sadiq's wife Meena called her brother other Ammi and Shahdeen both sons of Kalu r/o Miyani and told them that my husband is quarreling with me and beating me. You reach the place. After a while, Ammi and Shahdeen came to the place. As soon as they arrived, they started beating him. My brother's daughter Neefa called me and told me that my father is being beaten up by my maternal uncles. At that time, I had come to

Goindwal Sahib for some personal work and after a while I reached the place and saw that Ammi s/o Kalu was holding a brick in his right hand. He was throwing my brother Sadiq on the ground and hitting him with the brick on his cheek. Shahdeen, who had a scar in his hand, was holding my brother's leg. He was beating him and Sadiq's wife was also holding him by the legs and seeing me coming, all the accused along with their weapons along with 4/5 other unknown persons all ran away from the spot. When I went to my brother, and saw that he has died. The night was very dark and cold and foggy, so I did not come to the police station to inform you."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 13.05.2025. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further submitted that, assuming *arguendo*, the prosecution version is taken to be correct, the case would not invoke culpability under Section 103 of BNS (erstwhile Section 302 IPC) but only under Section 105 of the BNS (erstwhile Section 304 of IPC). Learned counsel has further iterated that the petitioner has suffered incarceration for more than one year. Learned counsel has further submitted that the prime prosecution witnesses are not coming forward to have their testimonies recorded despiteailable warrants having been issued against them, which is clear from the perusal of orders dated 19.09.2025, 26.09.2025, and 16.10.2025 passed by the trial Court. Learned counsel for the petitioner has further submitted that the petitioner is a man with clean antecedents. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by

arguing that the allegations raised are direct and 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 19.05.2026 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 13.05.2025 wherein after investigation was carried out and challan stands presented on 08.11.2025 Total 21 prosecution witnesses have been cited but only one partly has been examined till date. The trial is procrastinating and folly thereof cannot be attributed upon the petitioner. 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.”

6.1 The rival contentions raised by learned counsel give rise to debatable issues, which shall be ratiocinated upon during the course of trial. Though learned counsel for the complainant has pleaded that the

petitioners' side is exerting pressure, but no material, much less tangible evidence, has been brought forth in this regard. 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.

6.2 Indubitably, the present petition is the third attempt on behalf of the petitioner for securing regular bail. The first one bearing no. CRM-M-56944-2025 was dismissed as withdrawn on 19.11.2025 (Annexure P-4) whereas the second one bearing CRM-M-18631-2026 was dismissed as withdrawn on 29.04.2026 (Annexure P-5). However, keeping in view the entirety of facts and circumstance of the case in hand especially keeping in view the extended custody and pace of 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.”

6.3. Further, as per custody certificate dated 19.05.2026 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 01 year, 4 days and is shown to be involved in other FIR/case. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon’ble Supreme Court in ***Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586***; a Division Bench judgment of the Hon’ble Calcutta High Court in case of ***Sridhar Das v. State, 1998 (2) RCR (Criminal) 477*** & judgments of this Court in ***CRM-M No.38822-2022*** titled as ***Akhilesh Singh v. State of Haryana***, decided on 29.11.2021, and ***Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191***.

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. However, the complainant side, in case any threat is perceived, shall be at liberty to apply for a security before the concerned SSP. In case, any such plea is raised, the concerned SSP shall deal with the said plea in a ratiocinated manner within a period of one week from the receipt of such plea.

10. Ordered accordingly.

11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
12. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

20.05.2026
Naveen

Whether speaking/reasoned:Yes/No

Whether reportable:Yes/No