

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

226

CRM-M No.29501 of 2026 (O&M)

Date of Decision: 03.07.2026

Nishant @ Nishu

.....Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Surinder Singh Duhan, Advocate for the petitioner.

Ms. Deepali Verma, AAG, Haryana.

SURYA PARTAP SINGH, J. (Oral):

This petition for bail is the second petition, filed by the petitioner under Section 483 of 'the Bharatiya Nagarik Suraksha Sanhita, 2023'. It has been filed with regard to a case arising out of FIR No.234 dated 01.06.2025, for the commission of offence punishable under Sections 103(1) and 3(5) [Sections 61(2), 111, 143(1), 241, 249, 253, 318(4) and 319 (2) were added later on] of Bharatiya Nyaya Sanhita, 2023 and Sections 3 and 12 of the Passport Act (added later on) and Sections 25 and 27 of Arms Act, Police Station Shivaji Colony, District Rohtak.

2. The abovementioned FIR came into being at the instance of 'Sunil', hereinafter being referred to as 'complainant' only. It was stated by the complainant that his younger brother 'Anil', who was on bail in a case pertaining to murder of cousin of 'Himanshu Bhau', had gone to his field on motorcycle on 01.06.2025 at about 7.00 A.M. As per complainant there three



unknown persons came on a motorcycle fired gun-shots on his brother 'Anil' and killed him.

3. It is the case of the prosecution that in view of abovementioned statement, formal FIR of this case was lodged and the investigation taken up. According to prosecution during the course of investigation when CCTV footages of the area were examined, three persons riding on a Splendor motorcycle were seen who came from village Baland side and fired gun-shots at 'Anil'. As per prosecution during the course of investigation the names of assailants who were responsible for firing of gun-shots were found to be 'Deepak @ Raju', 'Munish Dholia' and 'Deepak' son of 'Satbir'. It has been further alleged by the prosecution that during the course of investigation it has been found that the present petitioner and co-accused namely 'Manish', were involved in hatching conspiracy for the commission of above mentioned offence. According to prosecution the petitioner was in constant touch with the kingpin of the gang, headed by 'Himanshu Bhau' and was instructed to identify 'Anil' (the deceased).

4. The learned State counsel has filed custody certificate of the petitioner. The same be taken on record. Reply to the petition is already on record.

5. Heard.

6. It has been contended by learned counsel for the petitioner that the petitioner is innocent who has been falsely implicated in the present case, merely, on the basis of evidence which is inadmissible, and that the petitioner has already suffered incarceration for a period of more than ten months and



eighteen days. Learned counsel for the petitioner has further contended that former petition for bail filed by the petitioner was not decided on merit and the same was withdrawn by learned counsel for the petitioner and the Court had accorded liberty to the petitioner to file petition afresh. In addition to above, learned counsel for the petitioner has also contended that the only evidence collected against the petitioner is the disclosure statement of co-accused and that the same is not admissible in evidence, as the above mentioned disclosure statement was recorded when the co-accused was already in police custody.

7. The learned State counsel has controverted the above mentioned arguments. According to learned State counsel in the present case the allegations against the petitioner is with regard to his involvement in the hatching conspiracy, and that he was in constant touch of the main conspirator of the offence namely 'Himanshu Bhau'. It has also been contended by the learned State counsel that petitioner does not have clean antecedents as he has already been prosecuted in ten other criminal cases and in view of gravity of offence the petitioner is not entitled to the benefit of bail.

8. The record has been perused carefully.

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

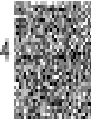
- i) that the petitioner is in custody for a period of more than ten months and eighteen days;
- ii) that there is no allegations against the petitioner that he was responsible for firing gun shots or that he was present on the



spot at the time of occurrence;

- iii) that the only evidence collected by the investigating agency against the petitioner is the disclosure statement of co-accused of the petitioner, and there is a question mark with regard to credibility & admissibility of above-mentioned statement in evidence, as the same was recorded when the co-accused of the petitioner was in police custody. Since pursuant to above-mentioned disclosure statement recovery of any incriminating material or discovery of fact has not taken place, *prima facie* the abovementioned statement appears to be hit by Section-23 of Bharatiya Sakshya Adhiniyam;
- iv) that the investigation in this case is already complete, and therefore, nothing has been left to be recovered from the possession of petitioner;
- v) that the trial is not likely to be concluded in near future as out of 42 prosecution witnesses not even a single witness has been examined so far;
- vi) that the detention of petitioner in judicial lock-up is not likely to serve any purpose;
- vii) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses;
- viii) 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 v. Central Bureau of Investigation’ (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. 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 an undertrial prisoner, as mandated by Hon’ble Apex court in ‘Balwinder Singh versus State of Punjab and another’ 2024 SCC Online SC 4354.

14. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled to the concession of bail, and that the present petition deserves to be allowed.



15. 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 abovesaid benefit 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 from disclosing 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 trial Court.

16. It is, however, made clear that any observation made hereinabove is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(SURYA PARTAP SINGH)
JUDGE

03.07.2026

Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No