



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

251

CRM-M-29351-2026 (O&M)

Decided on : 27.05.2026

Vijay

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present: Mr. Sandeep Singh Jattan, Advocate and
Mr. Jagdeep Kumar Jindal, Advocate
for the petitioner.

Ms. Deepali Verma, AAG Haryana.

SURYA PARTAP SINGH, J. (Oral)

This petition is the third petition for bail, filed by the petitioner under Section 483 of 'the Bharatiya Nagrik Suraksha Sanhita', 2023. It has been filed with regard to a case arising out of FIR No.993 dated 22.10.2022, for the commission of offence punishable under Sections 307, 326, 34, 302 and 120-B of Indian Penal Code, 1860 and 25 and 29 of the Arms Act, 1959, Police Station Sadar Karnal, District Karnal.

2. The FIR of this case came into being at the instance of 'Sumit' hereinafter being referred to as 'complainant' only. In the abovementioned FIR, the allegations against the petitioner are with regard to commission of offence punishable under Sections 302/307/326/120-B and 34 of IPC.

3. It is the case of prosecution that investigation of abovementioned case was complete and the final report under Section 173 CrPC was filed in the Court against four accused on 10.01.2023. As per



prosecution subsequent thereto, the petitioner was arrested in some other case and during the course of investigation of abovementioned case, the petitioner suffered a disclosure statement, wherein he revealed that two pistols used for the commission of offence in the present case were supplied by him to the principal accused in the present case, namely Himanshu and Bhupender, for a sum of Rs.61,000/-. According to prosecution in view of abovementioned disclosure statement, the petitioner was arrested in the present case also.

4. 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.

5. **Notice of motion.**

6. Ms. Deepali Verma, AAG Haryana appears on behalf of respondent-State. Hence service of notice upon the State is hereby dispensed with. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record. No formal reply has been filed by the State. However, the learned State Counsel has orally opposed the present petition.

7. Heard.

8. The record has been perused carefully.

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

- i. that the petitioner is already in custody for a period of eight months and ten days;



- ii. that nothing has been recovered from the possession of petitioner, and the only evidence, collected by the investigating agency against the petitioner is the disclosure statement of co-accused of the petitioner. 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 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;
- iii. that although there is allegation that Rs.10,000/- were recovered from the possession of petitioner and the abovesaid amount was proceed of crime paid by the co-accused to the petitioner, but there is no evidence to show that the abovementioned money was proceed of crime. Otherwise also it fails to convince a prudent mind that for almost three years, the petitioner would be carrying a part of proceeds of crime;
- iv. that it is quite unnatural that during the course of investigation when main accused were arrested they did not disclose the source from where they acquired the weapon of offence, but after almost three years of the incident in another case, the petitioner suffered a disclosure statement wherein he confessed that the weapon was supplied to the main accused by petitioner;
- v. that the offence is triable by Court of learned Judicial Magistrate;
- vi. that nothing has been left to be recovered from the possession of petitioner;
- vii. that the trial is not likely to be concluded in near future;



- viii. that the detention of petitioner in judicial lock-up is not likely to serve any purpose;
- ix. that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and
- x. that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate 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(2) R.C.R. (Criminal) 131, 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. 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.

14. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled to the benefit 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 abovementioned 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.

(SURYA PARTAP SINGH)
JUDGE

27.05.2026

Vinod

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No