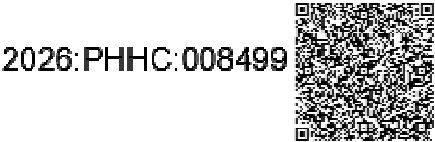


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220
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CRM-M-39586-2025

Sonu Sahani
.....Petitioner
Versus
State of Haryana
...Respondent

Date of Decision: January 21, 2026
Date of Uploading: January 21, 2026

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL
Present:- Mr. Manjeet Garhwal, Advocate for
Mr. Sahil Choudhary, Advocate for the petitioner.
Ms. Priyanka Sadar Thakur, Senior DAG Haryana.

SUMEET GOEL, J. (ORAL)

Present second 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 bearing FIR No.187 dated 03.06.2023, registered for the offences punishable under Sections 379B, 483 and 34 of the Indian Penal Code, 1860 (for short ‘IPC’) and Section 25(1B) of the Arms Act, 1959, at Police Station Civil Lines, Kaithal, District Kaithal, Haryana.

2. The gravamen of the FIR in question is that the complainant, namely, Meenakshi Sharma, wife of Saurabh Sharma, resident of House No. 52, Sector 19-I, HUDA, Kaithal, alleged that on 03.06.2023, at about 11:15 a.m., while she was returning from Shiv Mandir along with her two-year-old son, two boys arrived on a motorcycle bearing registration number HR-07AS-

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3039. The boy seated on the pillion seat forcibly snatched the gold chain weighing approximately two tolas that she was wearing around her neck. When she raised an alarm, the assailants assaulted her by giving fist blows, and one of them took out a pistol from his pant and threatened her with dire consequences, stating that he would kill her if she continued to raise an alarm. In the meantime, Rajender, son of Surajbhan, resident of House No. 296, Nehru Garden Colony, Kaithal, arrived at the spot, upon seeing whom the assailants fled from the scene.

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 19.02.2023. Learned counsel has iterated that the petitioner has been falsely implicated into the FIR in question. Learned counsel has submitted that the petitioner is in custody for more than 02½ years despite an order having been passed by this Court, on 23.05.2025, whereby, earlier bail plea of the petitioner was withdrawn, but an order was passed for expeditious trial, but the trial is not yet concluded. Learned counsel has also argued that there are material discrepancies in the testimony of the FIR-complainant. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that allegations raised against the petitioner 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 the custody certificate dated 20.01.2026, in the Court today, 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 19.02.2023, whereinafter investigation was carried out and challan has been presented on 21.11.2023.

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Total 10 prosecution witnesses have been cited, out of which, only 02 have been examined till date. It is not in dispute that the FIR-complainant has been examined as prosecution witness.

At this juncture, it would be apposite to refer herein a judgment of the Hon'ble Supreme Court in *Javed Gulam Nabi Shaikh vs. State of Maharashtra and anothers, 2024(3) RCR (Criminal) 494*, which reads thus:

“18. Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.

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 contention raised at Bar give rise to debatable issues, which shall essentially 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 20.01.2026 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 02

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years, 06 months and 17 days. Further, as per the said custody certificate the petitioner is stated to be involved in other FIR(s). 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***.

6.2. Indubitably, the present petition is the second attempt by the petitioner to secure regular bail. The last bail plea preferred by the petitioner was dismissed as withdrawn on 23.05.2025. However, keeping in view the entirety of the factual matrix of the case in hand; especially, in view of the factum of the petitioner having suffered extended incarceration for more than 07 months and pace of trial; this Court is inclined to affirmatively 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.

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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, if not required in any other case, 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 cellphone 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/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

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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.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

January 21, 2026

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No