217 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-40296-2025
Date of decision: 12.01.2026

PAWAN KUMAR THAKUR **...PETITIONER**

VERSUS

STATE OF PUNJAB **...RESPONDENT**

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Tamana Sharma, Advocate (through video conferencing) for the petitioner.

Mr. Raj Karan Singh, AAG, Punjab.

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RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached by way of filing the first petition praying for grant of regular bail in case FIR No.43 dated 01.03.2021 under Sections 302, 34 of IPC, registered at Police Station Sahnewal, District Ludhiana.

2. Succinctly the facts of the case are that an unknown dead body was found on 28.02.2022 lying in the empty plot of Thapar Mill. The same was reported to the police by the complainant, namely, Sukveer Singh @ Sukhi. The police recovered the dead body which was identified to be of Shanty Pandey. The statement of brother of the deceased, namely, Dharminder Pandey was recorded on the same date i.e. 01.03.2021 followed by a supplementary statement in which he named the petitioner and the co-accused, Roshan Kumar who had taken his deceased brother from the house on some pretext. Thereafter, his dead body was found and consequently, the petitioner was named as an accused in the present case and resultantly he was arrested on 02.03.2021. On completion of the investigation, the challan was presented and on framing of charges, trial commenced. He approached the learned

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Additional Sessions Judge, Ludhiana for grant of bail. However, after hearing both the sides and finding no merit in the same, the learned Additional Sessions Judge, Ludhiana declined the bail application vide order dated 02.04.2025. Aggrieved by the same, petitioner is before this Court praying for the grant of bail by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. She submits that admittedly the case of the prosecution is totally based on the circumstantial evidence. She further submits that the only allegation against the petitioner is to the effect that the petitioner was allegedly seen in the company of the deceased when he left his house on 26.02.2021. She further submits that the last seen evidence in itself is not sufficient to prove the guilt of the accused. However, he is linguishing in jail since date of his arrest and thus, has completed incarceration of more than 04 and a half years. She further submits that the prosecution has not been able to conclude the trial till date. She further submits that the petitioner has no criminal antecedents and thus, his false implication is writ large. She further submits that in the facts and circumstances, the petitioner deserves to be granted regular bail.

4. Status report by way of affidavit of Harjinder Singh, PPS, Assistant Commissioner of Police (South), Police Commissionerate Ludhiana on behalf of the respondent-State already filed in the Registry is taken on record.

5. *Per contra*, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the supplementary statement of the brother of the deceased was recorded wherein the petitioner was specifically named along with the co-accused, who had taken the deceased from his house on some frivolous excuse. However, thereafter his dead body

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was found. He further submits that as per the postmortem, the cause of death was found to be asphyxia due to strangulation. He further submits that out of total 17 prosecution witnesses, 09 have been examined so far. He has produced the custody certificate of petitioner today in the Court and the same is taken on record.

6. Heard.

7. On hearing learned counsel for the parties and perusing the record, it is deciphered that the case of the prosecution is admittedly based on the circumstantial evidence. The prosecution has relied upon the last seen evidence wherein the brother of the deceased has allegedly seen his brother going in the company of the petitioner and the co-accused. Custody certificate produced would show that the petitioner has completed incarceration of 04 years, 10 months and 06 days as on 11.01.2026. It further reflects that the petitioner is not involved in any other case. Out of 17 prosecution witnesses, only 09 have been examined so far. Needless to say that speedy trial is the fundamental right of every accused.

8. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court.

9. The Hon'ble Supreme Court in ***Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695*** has held as under:

> *"Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending*

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> *trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice."*

10. The Hon'ble Supreme Court in a recent decision dated 03.07.2024 in **'Javed Gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024'**, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India.

11. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the custody and antecedents of the petitioner, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned Trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

12.01.2026 **(RAJESH BHARDWAJ)**
renubala **JUDGE**

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

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