

2026:PHHC:008281



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

**CRM-M-44667-2025
Date of Decision: 20.01.2026**

Awal Khan @ Sahil

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Sauhard Singh, Advocate,
for the petitioner.

Mr. Vishal Singh, AAG, Haryana.

AARADHNA SAWHNEY, J. (ORAL)

1. Petitioner, co-accused in case FIR No.04 dated 02.01.2022 registered against him, under Sections 302/201/34/392/120B IPC, at Police Station Sector-10, Gurugram, has filed the present petition for grant of bail under Section 483 of BNSS.

2. Relevant facts as emerging from documents on record be noticed hereinbelow:-

“Pawan Kumar Kharwar S/o late Sh. Jeet Ram, R/o village Singera, Police Station Marda, District Ghazipur, Uttar Pradesh, presently residing in tenanted house No.164, Street No.5, Telephone Exchange, Samalkha, New Delhi set the criminal law in motion by filing a complaint pointing therein that his elder brother Anjani Kumar Kharwar, aged 40 years, used to earn his livelihood by selling eggs on a cart, near a liquor shop, Sector-62, Gurugram. After work, Anjani Kumar used to return home on daily basis. On 21.12.2021, Anjani Kumar did not come back. Family searched for him but were unsuccessful. After receiving an

information that an unidentified body is lying in mortuary at Gurugram, they reached there, where they identified the dead body as that of Anjani Kumar. Police authorities were requested to find out as to how Anjani Kumar passed away, who all were responsible and to initiate appropriate legal proceedings. Post-mortem examination of the dead body was got conducted. The Board of Doctors opined that “deceased died on account of head injury inflicted with blunt force” Complainant was contacted again. Son of the deceased responded to the police authorities and got his statement recorded to the effect that his late father was having a mobile phone in which two SIM cards had been inserted. At about 01:46 am on 22.12.2021, he had received a call from his father's number. The caller demanded to know the password, when he refused he was made to have word with his father that his life is in danger and thereafter, the phone was switched off. Son of deceased asserted that his father had been murdered by unknown persons. On the basis of the complaint and post-mortem report, a formal case vide FIR No.04 dated 02.01.2022, u/s 302/201/34/392/120B IPC, was registered at Police Station Sector-10, Gurugram.

During the course of investigation, son of the deceased produced a bill of the mobile phone being used by his late father. On the basis of IMEI number, a SIM was found functional in the said phone which was issued in the name of Isaq Khan, who when contacted disclosed that the phone set had been handed over to him by his nephew Majruddin, who in turn disclosed that the phone had been given to him by one Madhav, who explained that he had got the phone through Dipanshu. It was in the disclosure statement of Dipanshu that the name of the accused Aftab @ Raja cropped up. They were joined in the investigation. After collecting sufficient incriminating material against Aftab, he was arrested. Based on his disclosure statement Section 392 IPC was added. On 14.07.2022, co-accused Kunal Dhama and the present petitioner Awal Khan @ Sahil were arrested and interrogated. They confessed to their involvement in the crime. At the instance of

present petitioner iron spanner used in the commission of offence was recovered. Mobile phone (make Realme) was recovered at the instance of co-accused Aftab which had been looted from the deceased. It further came to the notice of the police authorities that present petitioner and Aftab @ Raja had stolen a vehicle in connection of which they were already facing a criminal case. On the intervening night 21/22.12.2022. Petitioner and other accused had given lift to the deceased in the stolen Honda City car. Rs.1500/- and mobile phone of deceased as also snatched, who was thereafter assaulted. Petitioner and his other accomplices, who were present in the car demanded to know the password as they were wanted to operate PhonePe App but were unsuccessful.

3. Application for grant of bail moved by the petitioner-accused was dismissed by Ld. ASJ, Gurugram vide order dated 13.03.2025. Aggrieved of the same, the present petition has been filed.

4. Learned counsel for the petitioner contends that petitioner has been falsely implicated in the present case. There is no eyewitness account or any other circumstantial evidence connecting petitioner to the commission of offence. Continuing further, learned counsel contends that petitioner was arrayed as an accused only on the string of disclosure statements. Dipanshu was the person, who was initially joined in the investigation and who named co-accused Aftab and finally after several persons, name of the petitioner cropped up. Aforesaid Dipanshu, however, while appearing as PW10 did not support the case of the prosecution. After being declared hostile on the request of Ld. APP, though he was subjected to rigorous cross-examination but nothing fruitful to support the case of the prosecution could be elicited therefrom.

It is further the submission of learned counsel that co-accused Kunal Dhama, who was also allegedly present in the car, when the incident occurred, has since been granted the concession of bail by this Court vide order

dated 22.07.2025 passed in CRM-M-23336-2025 (Annexure P-8), thus similar treatment be meted out to the present petitioner.

Learned counsel next contends that petitioner, who was arrested on 14.04.2022 has been in custody since then. Out of 35 prosecution witnesses only 12 have been examined, thus the likelihood of completion of trial in near future is quite remote. When appreciated in the light of the submissions advanced hereinabove, learned counsel contends that further incarceration would not serve any useful purpose and would also be violative of Fundamental rights guaranteed under Article 21 of the Constitution of India. Primarily with this submission, prayer for allowing the petition has been made.

5. *Per contra*, while opposing request of the grant of bail, learned State counsel contends that the petitioner and his other accomplices mercilessly beaten up the deceased, called up his son and demanded to know the password, when they were unsuccessful they aggravated their assaults. The fatal blow on the head of the deceased was given by the present petitioner (which fact has though been refuted by learned counsel for the petitioner). Nonetheless, learned State counsel prays for dismissal of the petition.

6. I have heard the learned counsel for the petitioner and learned State counsel and perused the documents on record.

7. In view of the submissions raised by learned counsel for the petitioner, but without adverting to merits of the case, taking note of the fact that petitioner has been in custody since 14.04.2022 and out of 35 prosecution witnesses only 12 have been examined till date. Further the fact that co-accused Kunal Dhama, who allegedly was present in the car along with petitioner has been released on bail, the Court is of the opinion that no useful purpose would be served by further detention of the petitioner, as the same,

without the prospect of trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial and would, thus, also be against the principle of “*Bail is a general rule and incarceration is an exception*” as held by Hon’ble Supreme Court in ***Dataram vs. State of Uttar Pradesh and another, 2018(2) R.C.R. (Criminal) 131.***

In ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012(1) RCR (Criminal) 586***, Hon’ble Supreme Court upheld the order of the High Court in granting bail to the second respondent/accused on the ground that he had been in custody for a long period and the possibility of the trial being concluded in the near future was remote.

Resultantly, petitioner is granted the concession of bail subject to his furnishing bail/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned. The petitioner shall abide by the following conditions:-

- (i) The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*
- (ii) The petitioner will not tamper with the evidence during the trial.*
- (iii) The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- (iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- (v) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- (vi) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- (vii) The petitioner shall not in any manner misuse his liberty.*
- (viii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.*

(ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

8. Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

20.01.2026
Parveen kumar

(AARADHNA SAWHNEY)
JUDGE

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