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CRM-M-48613-2025 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(224)

CRM-M-48613-2025 (O&M)

Date of decision : 14.01.2026

JASWINDER SINGH @ BABLU

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Nitin Sachdeva, Advocate,
Legal Aid Counsel for the petitioner

Ms. Sakshi Bakshi, AAG, Punjab

MANISHA BATRA, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking grant of regular bail in case arising out of FIR No.05 dated 21.01.2024 registered under Sections 302, 341, 148 and 149 of IPC registered at Police Station Qila Lal Singh, District Gurdaspur.

2. The aforementioned FIR was registered on the basis of statement recorded by the complainant-Malkeet Kaur on 21.01.2024, alleging therein that on 20.01.2024, she alongwith her son Roshandeep Singh was present in her house when they heard the accused-Akashdeep Singh while singing obscene songs while passing through her house.

When the complainant and her son stopped him from doing so, he felt

**CRM-M-48613-2025 (O&M)**

agitated and started hurling abuses. On the same evening, the accused Akashdeep reached outside the house of the complainant alongwith the petitioner and co-accused, when they were there. All of them were armed with weapons and opened an attack on the son of the complainant thereby causing injuries to him with their respective weapons. 4-5 unidentified persons were also accompanying them. On clamour being raised, the neighbourers had gathered and then the assailants fled away. The injured was rushed to the hospital but succumbed to the injuries sustained by him. After registration of FIR, investigation proceedings were initiated. Post-mortem examination of dead body of the victim was conducted. The co-accused were arrested. The present petitioner could not be apprehended. Proceedings for declaring him as a proclaimed offender were initiated and he was declared so on 29.07.2024. He was arrested on 11.12.2024 and is in custody since then. Investigation now stands completed.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since long. The trial will take considerable time to conclude. There is delay of 17 hours in registration of FIR, which has not been satisfactorily explained. Only one injury has been attributed to him and there is nothing on record to show that the same was fatal. His further incarceration would not serve any useful purpose. His involvement in another case cannot be considered to be a reason for denying benefit of bail. It is, therefore, argued that the petition deserves to be allowed.

**CRM-M-48613-2025 (O&M)**

4. Per contra, learned state counsel relying upon the contents of the status report, has argued that the petitioner formed an unlawful assembly with the co-accused and had voluntarily caused injuries to the victim Roshandeep Singh resulting in his homicidal death. He was an active participant in the crime as injury with *datar* had been caused by him on the head of the victim, thereby causing his death. The allegations against him are serious in nature. Even otherwise he had evaded his arrest for long time and was even declared as proclaimed offender. There are chances of his absconding again, if extended benefit of bail. It is, therefore, stressed that the petition does not deserve to be allowed.

5. This Court has heard the rival submissions made by the counsels for the parties at considerable length.

6. The petitioner by forming membership of an unlawful assembly with the co-accused is alleged to have assaulted the victim Roshandeep Singh, which has caused his death. The allegations against him are grave and serious in nature. Specific injury has also been attributed to him. As per the post-mortem examination, the cause of death was the result of multiple injuries sustained by the victim. The allegations prima facie reveal the presence of the petitioner at the spot with weapon and his participation in the occurrence. He has been linked to the acts attributed with the aid of Section 149 IPC, which has the following ingredients;

1. There must be an unlawful assembly;

**CRM-M-48613-2025 (O&M)**

2. Commission of an offence may be by any member of the unlawful assembly; and

3. Such offence must have been committed in prosecution of the common object of the assembly, or must be such as the members of the assembly knew to be likely to be committed.

7. From a perusal of the above ingredients, it is apparent that even mere presence in the unlawful assembly but with an active mind to achieve the common object, makes a person vicariously liable for the acts of the unlawful assembly. Under Section 149 of IPC, the liability of the other members, for the offence committed during the continuance of the occurrence rests upon the fact whether the other members knew beforehand that the offence actually committed was likely to be committed in prosecution of the common object or not. Such knowledge can reasonably be collected from the nature of the assembly, the weapon used, the behaviour of the participants at or before the scene of action.

8. In the instant case, the petitioner along with the co-accused is alleged to have opened an attack upon the son of the complainant. The allegations prima facie show his clear involvement/participation in the occurrence while having knowledge that the such offences were likely to be committed in prosecution of common object. The allegations against the petitioner are serious in nature as he along with co-accused stands accused of a heinous crime punishable with capital punishment or life imprisonment. While length of incarceration is a factor that weighs with

**CRM-M-48613-2025 (O&M)**

the Court in considering bail, it cannot overshadow the seriousness of the accusation of murder under Section 302 IPC. The material witnesses are yet to be examined. It is also well-settled proposition of law that grant of bail is a discretionary relief to be granted or denied based on specific facts and circumstance of each case and there cannot be any exhaustive parameters set out for considering the application for grant of bail. The factors such as nature of accusations, severity of punishment if the accusations entail a conviction and nature of evidence in support of accusations are to be seen. That apart, reasonable apprehension of tampering with evidence or threatening the material witnesses is also to be weighed. Frivolity of prosecution should always be considered, and it is only the element of genuineness that has to be considered in the matter of grant of bail.

9. In light of the circumstances as discussed above, this Court finding no compelling ground to allow this petition the same is dismissed.

10. It is clarified that any observation made in this order is only for deciding this petition and shall not influence the outcome of the trial and also not be taken as an expression of opinion on merits.

11. Since the main petition has been dismissed pending application, if any, is rendered infructuous.

(MANISHA BATRA)
JUDGE

14.01.2026
Amit Sharma

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