

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:013373



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CRM-M-51968-2025 (O&M)
Date of decision:29.01.2026

Shankar Sharma @ Kalu

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sushil Bhardwaj, Advocate for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

...

Manisha Batra, J. (Oral).

1. Instant one is the second petition as filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking concession of regular bail in case bearing FIR No.35, dated 17.02.2021, registered under Sections 346, 302, 201, 364, 34 IPC, at Police Station Sahnewal, Ludhiana.

2. The aforementioned FIR was initially registered under Section 346 IPC on the basis of statement recorded by the complainant – Suresh Prajapati on 17.02.2021, alleging therein that on the evening of 13.02.2021, his son Rajan Prajapati had left home and did not return. He had made inquiries at his own level and had come to know that on that very day, he had an altercation with the accused Suraj Singh, who had also not returned home. After registration of the FIR against unknown person, investigation proceedings

were initiated. It was revealed that the accused Suraj Singh along with the present petitioner and Munish Kumar had not returned home since 13.02.2021. A supplementary statement was recorded by the complainant on 19.02.2021 disclosing that the petitioner and the above named accused had extended beatings to his son on the fateful night in the vicinity of Peer Baba Majar. A resident of that vicinity, namely, Rajesh Kumar recorded his statement that he had seen three youths while assaulting one youth on the night of 13.02.2021 and taking him away on a bike. Statement of one Deepak Kumar to the same effect was also recorded. The petitioner and co-accused Suraj Singh were arrested on 20.02.2021. They suffered disclosure statements admitting their involvement in the crime of murder of the victim. Petitioner disclosed that on asking of accused Suraj Singh, he had struck blows with a wooden handle on the head of the victim and then the trio had transported the victim on a motorbike to Sidhwan Canal, where after inflicting more injuries, he was thrown into the canal. The dead body of the victim was got recovered at the instance of accused Suraj. Investigation now stands completed. The previous petition as filed by the petitioner has been dismissed as withdrawn vide order dated 21.08.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in prolonged incarceration for a period of about 05 years. There are no chances of conclusion of the trial in near future. His prolonged incarceration has furnished a new ground to him to seek concession of bail afresh. Even otherwise, he was not named in the FIR. A false recovery has been planted upon him. No useful purpose would be served by detaining him in custody anymore. He has clean antecedents. It

is, therefore, argued that he deserves to be released on bail.

4. Status report and custody certificate have been filed. Learned State counsel has argued that the allegations against the petitioner are serious in nature, who in connivance with the co-accused had brutally assaulted the victim on the night of 13.02.2021 and had thrown him in Sidhwan Canal, thereby causing his homicidal death and to cause disappearance of evidence of offence of murder. The weapon used by him at the time of occurrence has been got recovered at his instance. The witness of last seen has duly identified the petitioner while appearing in the Court. Some material witnesses are yet to be examined. There are chances of the petitioner's intimidating these witnesses, if extended benefit of bail. It is, thus, stressed that the petition does not deserve to be allowed.

5. This Court has heard the rival submissions made by learned counsel for the parties.

6. The petitioner in connivance with the co-accused is alleged to have abducted the victim, to have assaulted him, thereby causing serious injuries on his person and then to have thrown him in the Sidhwan Canal to cause disappearance of evidence of offence of murder. PW1 Deepak Kumar, who had seen him along with the co-accused has duly identified him while recording his sworn testimony in the Court. Some other witnesses are yet to be examined. The apprehension that the petitioner may intimidate them, if extended benefit of bail, cannot be stated to be unfounded. A copy of testimony of PW2 Anurag Verma, who was the witness to the recovery of the dead body of the victim at the instance of the petitioner and co-accused, has been placed on record, which reveals that he had identified the

petitioner as the person on whose behest dead body of the victim had been recovered from Sidhwan Canal. The allegations against the petitioner are quite serious in nature. It is 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 or petition 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 also be considered, and it is only the element of genuineness that has to be considered in the matter of grant of bail. The petitioner is accused of commission of a heinous crime punishable with capital punishment or life imprisonment. While length of incarceration is a factor that weighs with the Court in considering bail, it cannot overshadow the seriousness of the accusation of murder under Section 302 IPC. It is also well settled proposition of law that mere prolonged period of custody or the fact that the trial is likely to take time by itself or coupled with the period of incarceration are not sufficient grounds for enlarging an accused on bail, when the offence alleged is serious. Reference in this context can be had to the observations made in ***Parmod Kumar Saxena Vs. UOI, 2008(63) ACC (SC), Chenna Boyanna Krishna Yadav Vs. State of Maharashtra, (2007) 1 SCC, 242*** and ***State through CBI Vs. Amaramani Tripathi, 2005(4) RCR (Criminal) 280(SC)***.

7. In light of the foregoing legal principles and circumstances as

discussed above, this Court finding no compelling ground to allow this petition. Accordingly, the petition is dismissed.

8. 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.

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

29.01.2026

harjeet

(MANISHA BATRA)
JUDGE

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