



CRM-M-52795-2024
CRM-M-3226-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

106-1

1. CRM-M-52795-2024

Abhishek @ Gandhi
V/s
State of Haryana
....Petitioner
....Respondent

2. CRM-M-3226-2025

Mohit Kumar @ Mohit
V/s
State of Haryana
....Petitioner
....Respondent

Date of decision: 27.02.2026
Date of Uploading : 27.02.2026

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Fateh Saini, Advocate for the petitioner
in CRM-M-52795-2024.
Mr. Prateek Sharma, Advocate for the petitioner
in CRM-M-3226-2025.
Mr. Deepak Kumar Grewal, DAG Haryana.
Mr. Saurabh Sharma, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

1. By this common order, the aforesaid two petitions are being
disposed of together, as they emanate from a common FIR.
For brevity, the facts are being taken from *CRM-M-52795-
2024* titled as *Abhishek @ Gandhi vs. State of Haryana*.

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2. Present petition(s) have been filed under Section 439 of the Cr.P.C. seeking grant of regular bail to the petitioner(s) in case bearing FIR No.278 dated 26.07.2023, registered for the offences punishable under Sections 302/450 of IPC (Sections 201/392/404 of IPC and Section 25-54-59 of Arms Act added later) at Police Station City Thanesar, District Kurukshetra (Haryana).

2. The gravamen of the case, as emanating from the record, is that on 26.07.2023 the police received information with regard to the murder of Nirmala Devi at her residence in Sector 7, Kurukshetra. Upon reaching the spot, the police had found the deceased lying on a bed in a pool of blood with multiple injuries caused by a sharp-edged weapon. It has been further alleged that the post-mortem examination revealed as many as twelve injuries on the person of the deceased indicating a brutal and premeditated assault. During the course of investigation, the CCTV footage from cameras installed near the house of the deceased was collected which showed three young men entering the house at about 2:24 p.m. and leaving at about 2:48 p.m. with their faces covered. On the basis of secret information and further investigation, the identity of the said persons was established as the present petitioners and their co-accused. Thereafter, both the petitioners (herein) were apprehended on 29.07.2023 along with their co-accused while travelling on a motorcycle. It has been further alleged that the firearms and live cartridges were recovered from the co-accused accompanying the petitioner(s). Furthermore, their disclosure statements were recorded and pursuant thereto recoveries of stolen gold jewellery belonging to the

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deceased were effected from their respective houses. Petitioner - Mohit Kumar @ Mohit got recovered a knife which, as per the medical opinion obtained during investigation, was opined to be capable of causing the injuries found on the person of the deceased. The clothes and footwear allegedly worn by all the accused at the time of occurrence were also recovered. The husband of the deceased identified all the accused persons (including petitioners) as those who had earlier visited the house for white-washing work, thereby establishing their prior familiarity with the premises. After completion of investigation, the final report/challan has been presented before the competent Court.

3. Learned counsel for the petitioner – Abhisehk @ Gandhi has iterated that the petitioner is innocent and has been falsely implicated into the FIR in question. Learned counsel has further iterated that the FIR was initially registered against unknown persons and the name of the petitioner surfaced only during the course of investigation on the basis of disclosure statement(s) which has no evidentiary value in the eyes of law. It has been further contended that the petitioner has not been identifiable in the CCTV footage relied upon by the prosecution, as the person(s) seen therein have their faces covered and no scientific identification has been carried out to establish the identity of the petitioner. Furthermore, the alleged identification by the husband of the deceased is doubtful and cannot be relied upon at this stage particularly when no test identification parade has been conducted. It has been further submitted that no weapon of offence has been recovered from the petitioner and no overt act has been attributed

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to him in the commission of the alleged crime. The recovery of jewellery allegedly effected from the petitioner is disputed and is stated to have been planted with no independent witness to support the same. Learned counsel has emphasized that the prosecution case rests entirely on circumstantial evidence and there is no direct evidence connecting the petitioner with the occurrence. It has been further contended that the petitioner is stated to be in custody since 29.07.2023 and has undergone a substantial period of incarceration, while the trial is likely to take considerable time to conclude. The material witnesses have already been examined and, therefore, there is no likelihood of the petitioner influencing them. Learned counsel has canvassed that the petitioner is stated to be a young person with clean antecedents and not a flight risk and hence the continued incarceration of the petitioner serves no fruitful purpose

On the basis of aforesaid submissions, the grant of instant petition *qua* petitioner – Abhishek @ Gandhi is entreated for.

3.1. Learned counsel for the petitioner – Mohit Kumar @ Mohit has iterated that the petitioner is innocent and has been falsely implicated into the FIR in question. Learned counsel has further iterated that the FIR was initially registered against unknown persons and the name of the petitioner has been roped in later during the course of investigation on the basis of disclosure statement(s) which is inadmissible in evidence and even the alleged recovery in the present case is doubtful. It has been further contended that there is no direct evidence which would connect the petitioner with the commission of the alleged offence. Learned counsel has

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emphasized that the petitioner is not identifiable in the CCTV footage as the persons seen therein have their faces covered. Furthermore, no test identification parade has been conducted and, therefore, the alleged identification by the husband of the deceased cannot be relied upon at this stage. Learned counsel has further submitted that the alleged recovery of knife at the instance of the petitioner is fabricated and planted. It has been further contended that the recovery has been shown from an open and accessible place and no independent witness was joined at the time of recovery which renders the same highly doubtful. It has been further contended that the medical opinion regarding the weapon being capable of causing injuries does not conclusively connect the petitioner with the offence. Furthermore, the alleged recovery of jewellery from the petitioner is false and there is no reliable evidence to show that the same belonged to the deceased. According to learned counsel, the entire case of the prosecution is based on circumstantial evidence which does not form a complete chain pointing towards the guilt of the petitioner. It has been further contended that the petitioner is stated to be in custody since 29.07.2023 and has undergone a substantial period of incarceration, while the trial is likely to take considerable time to conclude. The material witnesses have already been examined and, therefore, there is no likelihood of the petitioner influencing them. Learned counsel has canvassed that the petitioner is stated to be a young person with clean antecedents and not a flight risk and hence the continued incarceration of the petitioner serves no fruitful purpose.



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On the basis of aforesaid submissions, the grant of instant petition *qua* petitioner – Mohit Kumar @ Mohit is entreated for.

4. *Per contra*, learned State counsel has opposed the petition in hand by submitting that the present case involves a heinous and brutal murder committed after house trespass which is punishable with death or imprisonment for life. Learned State counsel has iterated that the petitioner(s) have been specifically named during the course of investigation on the basis of credible secret information which led to the apprehension of the petitioner(s) along with their co-accused while travelling on the motorcycle used in the commission of the crime. According to learned counsel, the CCTV footage collected from the vicinity of the house of the deceased clearly shows three persons entering the house at the relevant time and leaving shortly thereafter with their faces covered. Learned State counsel has further submitted that the petitioner(s) were part of the group that committed house trespass and robbery which culminated in the murder of the deceased. Furthermore, the stolen gold jewellery belonging to the deceased was recovered from the house of the petitioner(s) pursuant to their disclosure statement and the same was duly identified by the husband of the deceased. It has been further contended that the call detail records and other scientific evidence collected during investigation further corroborate the presence of the petitioner(s) in the vicinity of the place of occurrence at the relevant time. Learned State counsel has emphasized that the trial is at a crucial stage and in case the petitioner(s) are granted the concession of regular bail, there is a strong likelihood that they may influence or



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intimidate the witnesses. Considering the gravity of the offence, the specific role attributed to the petitioner(s), the recoveries effected at their instance and the strong circumstantial evidence collected during investigation, the dismissal of the petition(s) is prayed for.

5. Learned counsel appearing for the complainant has raised submissions in tandem with the learned State counsel and has submitted that the case in hand involve brutal murder of an elderly lady inside her own house after committing house trespass and robbery. Considering the seriousness of the allegations, the manner in which the offence has been committed and the role attributed to the petitioner(s), learned counsel has sought for dismissal of the present petition(s).

6. I have heard learned counsel for the rival parties and have perused the available record.

7. The grant of bail falls within the discretionary domain of the Court; however, such discretion must be exercised in a judicious and principled manner, ensuring it aligns with established legal precedents and the interests of justice. While considering a bail application, the Court must evaluate factors such as the existence of *prima facie* evidence implicating the accused, the nature and gravity of the alleged offence and the severity of the likely sentence upon conviction. The Court must also assess the likelihood of the accused absconding or evading the due process of law, the probability of the offence being repeated and any reasonable apprehension of the accused tampering with evidence or influencing witnesses.

Additionally, the character, antecedents, financial means, societal standing



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and overall conduct of the accused play a crucial role. Furthermore, the Court must weigh the potential danger of bail undermining the administration of justice or thwarting its due course. A profitable reference in this regard is made to the judgment passed by the Hon'ble Supreme Court titled as ***State through C.B.I. vs. Amaramani Tripathi, 2005 AIR Supreme Court 3490***, relevant whereof reads as under:

14. *It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (see ***Prahlad Singh Bhati v. NCT, Delhi, 2001(2) RCR (Criminal) 377 (SC) :2001(4) SCC 280 and Gurcharan Singh v. State (Delhi Administration), AIR 1978 Supreme Court 179***). While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. We may also refer to the following principles relating to grant or refusal of bail stated in ***Kalyan Chandra Sarkar v. Rajesh Ranjan, 2004(2) RCR (Criminal) 254 (SC) :2004(7) SCC 528*** : "The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:*



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- a. *The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.*
- b. *Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.*
- c. *Prima facie satisfaction of the **court** in support of the charge. (see **Ram Govind Upadhyay v. Sudarshan Singh**, 2002(2) RCR (Criminal) 250 (SC) : 2002(3) SCC 598 and **Puran v. Ram Bilas**, 2001(2) RCR (Criminal) 801 (SC) : 2001(6) SCC 338."*

This Court also in specific terms held that :

*"the condition laid down under section 437(1)(i) is sine qua non for granting bail even under section 439 of the Code. In the impugned order it is noticed that the High **Court** has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail."*

*In **Panchanan Mishra v. Digambar Mishra**, 2005(1) Apex Criminal 319 : 2005(1) RCR(Criminal) 712 (SC) : 2005(3) SCC 143, this Court observed :*

"The object underlying the cancellation of bail is to protect the fair trial and secure justice being done to the society by preventing the accused who is set at liberty by the bail order from tampering with the evidence in the heinous crime..... It hardly requires to be stated that once a person is released on bail in serious criminal cases where the punishment is quite stringent and deterrent, the accused in order to get away from the clutches of the same indulge in various activities like tampering with the prosecution witnesses, threatening the family members of the deceased victim and also create problems of law and order situation."

8. The factual matrix of the case, as emerging from the FIR,

reflects that the allegations against both the petitioners are grave and



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serious. The manner in which the offence has been committed, as reflected from the post-mortem report showing multiple injuries, *prima facie* indicates a brutal and calculated act. The CCTV footage captures the entry and exit of three persons during the relevant time. As per the prosecution, the identity of the petitioners has been established through subsequent investigation and is also corroborated by their arrest along with the co-accused, the recoveries effected pursuant to their disclosure statements and the identification of stolen jewellery belonging to the deceased from their possession. The role attributed to petitioner - Mohit Kumar @ Mohit is specific and material inasmuch as he is alleged to have got recovered the knife which has been opined by the doctor to be capable of causing the injuries suffered by the deceased. The recovery of the weapon of offence at his instance constitutes a significant incriminating circumstance at this stage. Similarly, petitioner Abhishek @ Gandhi is not only alleged to be part of the group that entered the house of the deceased but has also been attributed recovery of stolen article which indicates his participation in the occurrence. The fact that the petitioners were known to the family of the deceased, having earlier visited the house for white-washing work, lends further credence to the prosecution version regarding their access and knowledge of the premises. At the stage of consideration of bail in a case involving an offence punishable under Section 302 IPC, the Court is required to consider the nature and gravity of the accusation, the severity of punishment in the event of conviction, the *prima facie* involvement of the accused and the likelihood of the accused influencing the course of trial.



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The material collected during investigation, including CCTV footage, recoveries, medical opinion and identification of stolen articles, *prima facie* connects both the petitioners with the commission of the offence. The trial is still in progress and the prosecution evidence cannot be said to have been concluded. In such circumstances, the possibility of the petitioner(s) tampering with evidence or influencing witnesses cannot be ruled out.

9. The plea of the petitioner contention that the petitioners have been in custody for a long period by itself is not sufficient to grant bail in a case of such a serious nature where the allegations disclose commission of a heinous offence involving house trespass and murder. The parameters governing grant of bail in offences punishable with death or life imprisonment are required to be applied with greater caution. The allegations leveled against both the petitioners are grave and specific which clearly indicate their active participation in the commission of the crime. In the considered opinion of this Court the very magnitude and seriousness of the crime, disentitle the petitioners for the concession of regular bail. In the considered opinion of this Court, at this stage, no accentuating circumstances have been made which may *prima facie* constitute a compelling ground for the grant of regular bail to the petitioner, especially in light of the gravity of the allegations and the evidence on record. It is also to be borne in mind that offences of this nature strike at the very root of public order and societal conscience. Granting bail in such cases would not only undermine the gravity of the offence but may also embolden the accused. Furthermore, the apprehension expressed by the State and the



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complainant that the petitioner(s), if released on bail may influence the witnesses also cannot be said to be unfounded particularly when several material witnesses are yet to be examined. The mere fact of prolonged custody cannot, in itself, constitute a ground for bail in cases of such grave and heinous character.

10. In view of the seriousness of the allegations coupled with the nature of evidence, this Court is of the considered opinion that both the petitioners are not entitled to the concession of regular bail.

11. In view of the prevenient ratiocination, it is ordained thus:

- (i) Both the petitions are devoid of merits and are hereby dismissed.
- (ii) Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.
- (iii) Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

February 27, 2026
Ajay

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