

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

117

CRM-M No.50846 of 2025 (O&M)
Decided on: 27.02.2026

Harsh

.....Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

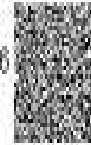
Present: Mr. Rakesh Kumar Lathwal, Advocate for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana.

SURYA PARTAP SINGH, J. (Oral):

This is first petition for bail, filed by the petitioner under Section 483 of the 'Bharatiya Nagarik Suraksha Sanhita 2023'. This petition pertains to a case arising out of FIR No.35 dated 22.02.2023, for the commission of offence punishable under Sections 302, 34 [challan filed under Sections 302, 201, 120-B, 419, 420, 467, 468 and 471] of Indian Penal Code and Section 25 of Arms Act, Police Station Nagina, District Nuh.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being at the instance of 'Aseen' hereinafter being referred to as 'complainant', only. It was stated by the complainant that his brother 'Aas Mohammad' had left home on 22.02.2023 along with 'Jamshed' and one unknown person on a motorcycle on the pretext of meeting some party. According to complainant at about 1.00 P.M., he got a message that some mis-happening had taken place with 'Aas Mohammad'. As per complainant, when



reached the spot he found that his brother had been killed, and when he inquired about 'Jamshed' and the third person, they were found missing.

3. It is the case of the prosecution that in view of above mentioned statement formal FIR of this was lodged and on spot inspection the knives used in the commission of offence were recovered. As per prosecution on the basis of suspicion when Jamshed was arrested, he suffered a confessional statement wherein he nominated the present petitioner.

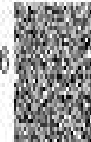
4. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record.

5. Heard.

6. With regard to facts of the instant case the observation in the case of 'Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence' 2018(3) SCC Online SC 757, are relevant, wherein it has been held by the Hon'ble Supreme Court of India that the disclosure statement of co-accused is inadmissible against another accused, as the disclosure statement is not a substantive piece of evidence against other accused.

7. Similar principle has been laid down by the Hon'ble Supreme Court of India in the case of 'Preet Kamal Vs. State of Punjab', 2018(4) RCR (Criminal) 938, wherein it has been held that the disclosure statement of an accused can be used only against the person making the same, and not against the co-accused.

8. In 'Tofan Singh Vs. State of Tamil Nadu', 2021(4) SCC 1 also, it has been observed by the Hon'ble Supreme Court of India that confessional statement of accused recorded under Section 67 of NDPS Act cannot be

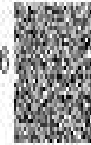


admitted in evidence, as a confession.

9. The record has been perused carefully.

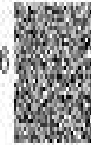
10. A perusal of the record shows that following are the relevant factors which are required to be taken into consideration for a decision in the present petition:-

- i) that the petitioner is already in custody for a period of more than 2 years, 11 months and 24 days;
- ii) that the petitioner has clean antecedents.
- iii) that the recovery of weapon of offence had taken place from the spot itself, wherefrom the dead body was recovered, and thus, nothing incriminating has been recovered from the possession of petitioner;
- iv) that the case is based on circumstantial evidence only, and the plea being taken by the prosecution is that the petitioner was last seen in the company of Jamshed who had suffered the disclosure statement. However, no convincing motive for the commission of offence has been attributed;
- v) that the investigation in this case is already complete, and therefore, nothing has been left to be recovered from the possession of petitioner;
- vi) that the trial of this case is not likely to be concluded in near future;



- vii) that the complainant has already been examined and in his statement he has tried to change the version as in the deposition before the Court it has been stated by the complainant, as PW-7, that Jamshed was not accompanying the deceased at the time of occurrence;
- viii) that the detention of petitioner in the judicial lock-up is not likely to serve any purpose;
- ix) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses;
- x) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

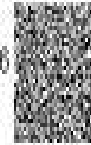
11. In the present case, the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Dataram versus State of Uttar Pradesh and another', (2018) 3 SCC 22, are relevant, wherein it has been observed that "a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a



prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

12. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil v. Central Bureau of Investigation’ (2022) 10 SCC 51 are also relevant in this case. In the abovementioned case, it has been observed that “the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.

13. Recently, in the case of ‘Tapas Kumar Palit Vs. State of



Chhattisgarh', 2025 SCC Online SC 322, the Hon'ble Supreme Court of India has observed that "if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed". It has also been observed by the Hon'ble Supreme Court of India in the abovementioned case that "delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently".

14. To elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to an undertrial prisoner, as mandated by Hon'ble Apex court in 'Balwinder Singh versus State of Punjab and another' 2024 SCC Online SC 4354.

15. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the concession of bail, and that the present petition deserves to be allowed.

16. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However, the abovesaid benefit shall be



subject to following conditions:-

- i) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the Court or to any other authority;
- ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- iii) that the petitioner shall not leave India without prior permission of trial Court.

(SURYA PARTAP SINGH)
JUDGE

27.02.2026
Manoj Bhutani

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