

In the High Court of Punjab and Haryana, at Chandigarh**Criminal Misc. No. M-51407 of 2025****Date of Decision: 04.02.2026**

Satish Kumar

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.Present: Mr. Anoop Singla, Advocate
for the petitioner(s).Mr. I.P.S.Sabharwal, Deputy Advocate General,
Punjab.**Surya Partap Singh, J.**

1. This is second petition for bail filed by the petitioner with regard to the case pertaining to FIR No. 74 dated 05.05.2022 lodged in Police Station City Phagwara, District Kapurthala, Punjab for the commission of offence punishable under Sections 302 of the Indian Penal Code, 1860 [Sections 379 and 411 IPC added later on].

2. The above mentioned FIR came into being at the instance of Darshan Kumar Bhalla, hereinafter being referred to as “complainant” only. The complainant had reported to the police that on 04.05.2022 at about 05.15 P.M. the neighbours of his brother’s shop had informed him that his brother was lying on the floor of his shop. According to complainant, he immediately rushed to the shop of his brother and found him lying on the floor, and his face was downward. As per complainant, the blood was

oozing out of his throat, which had been slit. The complainant further stated that he immediately informed his brother's wife on phone and shifted his brother to hospital. It was alleged by the complainant that some unknown person had killed his brother.

3. It is the case of prosecution that in view of above mentioned information, FIR of this case was lodged and the investigation taken up. As per prosecution, during the course of investigation, the petitioner was arrested who had suffered a disclosure statement pursuant to which the weapon of offence has been recovered.

4. **Notice of motion.**

5. Since advance notice has already been served upon the State, Mr. I.P.S.Sabharwal, Deputy Advocate General, Punjab accepts notice on behalf of respondent-State. Hence, service of notice upon the State is hereby dispensed with.

6. Heard.

7. It has been contended on behalf of petitioner that the petitioner is already in custody for a period of almost three years & nine months, and that the trial is taking place at a snail's pace as out of 13 only eight prosecution witnesses have been examined so far. According to learned counsel for the petitioner the former petition for bail moved by the petitioner was dismissed way-back on 25.03.2025, and that thereafter, there is no significant progress in the trial. It has also been contended by learned counsel for the petitioner that there is no eye witness account in the present case, and that the only evidence collected by the Investigating Agency is the disclosure statement of the petitioner. As per learned counsel for the

petitioner all the private witnesses have already been examined and therefore, there is no chance of tampering of the evidence at the instance of petitioner.

8. The learned State counsel has controverted the above mentioned arguments. According to learned State counsel there is cogent evidence against the petitioner with regard to his involvement in the commission of crime. According to learned State counsel, from the date of dismissal of first bail petition no significant change in circumstances has taken place.

9. The record has been perused carefully.

10. Taking into consideration the facts and circumstances of the present case, following factors deserve to be taken into consideration for a decision in the present petition:-

- i) that the petitioner is already in custody for a period of almost three years & nine months;
- ii) that the investigation in this case is already complete and therefore, nothing is left to be recovered from the possession of petitioner;
- iii) that there is no eye witness account in the present case and FIR was lodged against an unknown person;
- iv) that only evidence against the petitioner is his disclosure statement which allegedly led to recovery of weapon of offence;
- v) that from the date of dismissal of former bail petition no significant progress in trial has taken place and therefore,

the petitioner has got a right to file the second petition for bail under the changed circumstances;

- vi) that the petitioner has no criminal antecedents;
- vii) that the trial is not likely to be concluded in near future;
- viii) that 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 while on bail, the petitioner is likely to tamper with the evidence or influence the witnesses; and
- x) that there is nothing on record to show that while on bail, the petitioner will not participate/cooperate in trial.

11. With regard to the legal aspect involved in the instant case, it is relevant to mention that the Hon'ble Supreme Court in the case of *Dataram v. State of Uttar Pradesh and Another* (2018) 3 Supreme Court Cases 22, has 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 Supreme Court Cases 51, are also relevant in this case. In the above mentioned 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 v. 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 above mentioned 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 the accused as mandated by Hon’ble Apex court in Balwinder Singh versus State of Punjab and Another 2024 SCC Online SC 4354.

15. If the cumulative effect of all the above mentioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit 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 above said concession shall be subject to following conditions:-

- a) 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 to disclose such facts to the Court or to any other authority;

- b) 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 conclusion of trial; and
- c) that the petitioner shall not leave India without prior permission of the trial Court.

17. It is, however, made clear that any observation made here-in-above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(Surya Partap Singh)
Judge

February 04, 2026
“DK”

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