



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

235

CRM-M-51843-2025 (O&M)

Date of decision : 15.01.2026

Lakhan @Lekhraj

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Balraj Gujjar, Advocate for the petitioner.

Ms. Deepali Verma, Asst. A.G. Haryana.

Mr. Atull Dhankhar, Advocate for the complainant.

SURYA PARTAP SINGH, J. (oral)

1. For the commission of offence punishable under Sections 302 and 120-B of Indian Penal Code and Section 25 of Arms Act, the FIR No.395 dated 23.09.2022 has been lodged in Police Station Gadpuri, District Palwal. The petitioner is being prosecuted for the commission of abovementioned offence and he has been arrested. The petitioner is in custody and, therefore, craving for bail.

2. In nut-shell, the facts emerging from record are that the FIR of this case came into being at the instance of 'Ombir', hereinafter being referred to as 'complainant' only. It was stated by above-named complainant that on 23.09.2022 at about 07:00 pm, he had gone to Village Prithla to meet his brother-in-law, namely Sandeep, who was released on bail from Neemka Jail Faridabad in the year 2022. As per complainant, in his presence



his brother-in-law Sandeep received a phone call and thereafter, he went towards Bus-stand Village Prithla on his motorcycle.

3. According to complainant, he followed his brother-in-law, and that at about 08:15 pm in Ginhara Mohalla, Village Prithla, he noticed that his brother-in-law was coming on his motorcycle along with an unknown person from opposite direction, and suddenly he lost control over the motorcycle and fell down. As per complainant, he heard a noise of gun-shot fire and when rushed to the place of occurrence, he noticed that the pillion rider fled from the spot. The complainant had alleged that when he examined brother-in-law Sandeep, he found that blood was oozing out of his head and therefore, his brother-in-law Sandeep was immediately rushed to the hospital, where he passed away.

4. It is the case of the prosecution that in view of abovementioned statement, the FIR of this case was lodged, and the investigation taken up. As per prosecution, during the course of investigation, the petitioner was arrested.

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

6. Mr. Atull Dhankhar, Advocate has put in appearance on behalf of complainant and filed Power of Attorney. The same, too, be taken on record.

7. Heard.

8. It has been contended on behalf of petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime, and



that he has been falsely implicated in the present case. According to learned counsel for the petitioner, the entire case of the prosecution is resting upon the plea that the incident was witnessed by the complainant-Ombir, but the presence of above-named witness in itself is unnatural and fails to inspire confidence. It has also been contended by learned counsel for the petitioner that the petitioner has already suffered prolonged incarceration for being in custody for a period of more than 03 years and 03 months, and that out of 25 prosecution witnesses, only 17 have been examined so far. It has been claimed by learned counsel for the petitioner that the petitioner has no criminal antecedents. As per learned counsel for the petitioner, nothing is left to be recovered from the possession of petitioner, and that the statement of material witness, i.e. complainant, has already been recorded.

9. The learned State Counsel, being assisted by learned counsel for the complainant, has controverted the abovementioned arguments. According to learned State Counsel, there is direct nexus between the commission of crime and the petitioner, as the weapon of offence has been recovered from the possession of petitioner. The learned State Counsel has also argued that the complainant in this case has already been examined, and he has duly supported the prosecution case with regard to involvement of petitioner in the commission of crime.

10. The record has been perused carefully.

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



- i) that as per custody certificate, the petitioner is already suffering prolonged incarceration for being in custody during the course of trial for a period of more than 03 years and 03 months;
- ii) that all the material witnesses have already been examined;
- iii) that nothing is left to be recovered from the possession of petitioner;
- iv) that detention of the petitioner in judicial lock-up is not likely to serve any purpose;
- v) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and
- vi) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.

12. In the present case, the principles of law laid down by the Hon'ble Supreme Court in the case of "Dataram versus State of Uttar Pradesh and another", 2018(2) R.C.R. (Criminal) 131, 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”.

13. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil Vs. Central Bureau of Investigation and Another’, (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”.

14. 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”.

15. Therefore, 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.

16. If the cumulative effect of all the abovementioned 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.

17. 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 his furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court, subject to the 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 to disclose 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 the trial Court.

(SURYA PARTAP SINGH)
JUDGE

15.01.2026
Gaurav Thakur

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No