



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-55373 of 2025

Date of Decision: 19.02.2026

Raja alias Raja Kharwar

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Sandeep Arora, Advocate
for the petitioner(s).

Mr. Eklavya Darshi, Deputy Advocate General,
Punjab, for the respondent.

Surya Partap Singh, J.

1. This petition for bail, which is first petition has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, with regard to a case arising out of FIR No. 32 dated 14.07.2025 for the commission of offence punishable under Section(s) 109, 3(5) and 103(1) of the Bharatiya Nyaya Sanhita, 2023, and Sections 25 and 27 of the Arms Act, 1959, Police Station GRP, District Jalandhar, Punjab.

2. Briefly stating the facts emerging from the record are that the FIR of this case came into being at the instance of 'Karan Kumar' hereinafter being referred to as "complainant" only. It was stated by the complainant that on 12.07.2025 at about 10.00 P.M. when he was going home from his work place, he came to know that his brother, namely 'Manish Kumar' had been shot by someone near the railway lines.

According to complainant he immediately rushed to the spot along with his two neighbours and found that his brother 'Manish Kumar' was lying there and that he had suffered bullet injuries in his abdomen. According to complainant he immediately shifted 'Manish Kumar' to Civil Hospital, Jalandhar for treatment as he was unconscious as per complainant on the way to the hospital 'Manish Kumar' told him that he was shot by 'Mankaran Singh' son of Jatinder Singh and along with him one person, namely 'Raja' was standing at some distance. It was further stated that after firing gunshot 'Mankaran' picked up the shell of bullet from the spot and fled along with weapon.

3. It is the case of the prosecution that in the hospital 'Manish Kumar' was given first aid and thereafter he was shifted to 'Armaan Hospital, Jalandhar' where he succumbed to his injuries and passed away.

4. According to prosecution initially the FIR was lodged for the offence punishable under Section 109 of Bharatiya Nyaya Sanhita, but after the death of 'Manish Kumar' Section 103(1) of Bharatiya Nyaya Sanhita invoked.

5. Heard.

6. The record has been perused carefully.

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

- i) that the petitioner is in custody for a period of six months and 20 days;
- ii) that no overt or covert act has been attributed to the

petitioner, showing that he was instrumental in causing gun-shot injury on the person of 'Manish Kumar'. The only allegation against the petitioner is that he was present on the spot at some distance and fled from the spot;

- iii) that no weapon of offence has been attributed to the petitioner and therefore, nothing has been recovered from his possession;
- iv) that the only evidence against the petitioner is the dying declaration of 'Manish Kumar', made before his brother, i.e. complainant;
- v) that there was no effort to get the statement of injured 'Manish Kumar' recorded either by a Magistrate or at least by the doctor;
- vi) that the name of petitioner came up during the course of investigation after 17 days of incident;
- vii) that the petitioner has clean antecedents;
- viii) that trial of the case is not likely to be concluded in near future;
- ix) that nothing is left to be recovered from the possession of the petitioner;
- x) that further detention of the petitioner is not likely to produce a fruitful result;

- xi) 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
- xii) that there is nothing on record to show that while on bail, the petitioner will not participate/cooperate in the investigation.

8. With regard to the factual matrix of the instant case, it is relevant to mention that the Hon'ble Supreme Court of India 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.”

9. 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.”

10. Recently, in the case of ‘Tapas Kumar Palit v. State of Chhattisgarh’, 2025 SCC Online SC 322 the Hon’ble Supreme Court of India 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.”

11. 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.

12. 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.

13. 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.

(Surya Partap Singh)
Judge

February 19, 2026
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No