



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

222-1

CRM-M-57781-2025

Date of Decision : 23.01.2026

NIRBHAY

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Nitish Pathak, Advocate
for the petitioner.

Mr. Vikram Singh, AAG, Haryana.

AARADHNA SAWHNEY, J. (ORAL)

1. This petition for grant of bail under Section 483 of BNSS, 2023, has been filed by petitioner, an accused in case bearing FIR No.191 dated 19.06.2025 registered against him at Police Station Ambala Cantt, District Ambala, for the commission of offences punishable u/s 115, 117(2), 190, 191(3), 333, 351(2), 318(4) of BNS (Sections 110, 115(2), 191(2) of BNS added later on) (Section 333 of BNS deleted later on).

2. Relevant facts emerging from documents on record be noticed hereinbelow:-

Jasraj Singh, son of Sh. Sukhpal, resident of Sounda, District Ambala, studying in B.A.-III in Government PG College, Ambala Cantt. set the criminal law in motion by filing a complaint pointing therein that about 4:00 PM on 14.06.2025, he and his

*friends Ashish @ Polla and Aasif had come to meet him. They all had gone to the market; Kabari Bazaar and while they were present there, Karanveer son of Darshan Singh, Happy son of Pal Singh, Yuvraj @ Yuvi son of Jaipal Singh, Vikas son of Gulzar Singh, residents of Sivala Mandi, Vicky Yadav son of Makhan Singh, resident of Dudla Mandi, Anurag son of Dinesh Kumar, resident of Sai Ka Bagh, **Nirbhay Saini (present petitioner)** and another boy suddenly barged inside the shop. **Anurag and Vicky Yadav, who were armed with sticks, unleashed an attack and started hitting him with dandas.** The others, who were accompanying these two assailants, gave fist blows. On account of the attack unleashed by the assailants, he suffered serious injury and blood started oozing from his head. He could not move his arms. On hearing his hue and cries, people started gathering. On seeing them assailants, fled away but not without before issuing threat to wipe him out on any suitable convenient opportunity. Without wasting any time, his friends rushed him to the Civil Hospital, Ambala Cantt., where first aid treatment was provided. On account of his delicate medical condition, treating doctors of the said hospital referred him to Super Speciality Hospital, Ambala. However, family members got him admitted in M.M. College of Medical Science, Sadopur.*

On the basis of the said complaint and Medico Legal Report, a formal case vide FIR No. 191 dated 19.06.2025, u/s 115, 117(2), 190, 191(3), 333, 351(2), 318(4) of BNS (Sections 110, 115(2), 191(2) of BNS added later on) (Section 333 of BNS deleted later on), was registered against the present petitioner and other accused.

Petitioner, who was specifically named in the FIR was arrested on 20.06.2025. During interrogation, he confessed to his involvement in the incident and also highlighted the sequence of events leading to the assault on the relevant

day. After the other accused were arrested in due course of time, they were interrogated, recoveries were effected. Admittedly, challan has been filed.

3. An application for grant of bail was filed by the present petitioner. The same was dismissed by the learned Additional Sessions Judge, Ambala, in terms of order dated 04.10.2025. Aggrieved of which, the present petition has been filed.

4. Learned counsel for the petitioner contends that petitioner has been falsely implicated in the present case and even if the story as portrayed by the prosecution is taken to be true at its face value (though not admitted), the only role attributed to the petitioner is that being a member of the unlawful assembly, he gave kick and fist blows to the complainant-injured. Expectedly, nothing was recovered at his instance. It is further the submission of learned counsel that petitioner, a young boy of 20 years, whose past antecedents are quite clean as he is not involved in any other criminal case and who has been in custody since 20.06.2025, deserves a lenient view to be taken in his favour, as the likelihood of completion of trial in the near future is quite remote, for none of the prosecution witnesses have been examined. When viewed in the factual scenario of the case in hand, further incarceration of petitioner would not serve any useful purpose as the same would be violative of his fundamental rights guaranteed under Article 21 of the Constitution of India. Further, as per learned counsel, petitioner undertakes to abide by all the conditions so imposed by the Court, while extending the concession of bail to him. Prayer for allowing the petition has been made.

5. *Per contra*, learned State counsel has opposed the request for grant of bail pointing therein that petitioner, who was a member of an unlawful assembly, unleashed an attack on complainant, who suffered multiple serious

injuries, some on the vital parts of his body (head). In the incident, both the arms of the complainant were fractured and he remained hospitalized for as many as 18-20 days. It has been prayed that in the light of the manner in which the offence was committed, the fact that complainant/injured, eye-witness and other related witnesses have not been examined, no case for grant of bail is made out, for if extended the concession of bail, likelihood of petitioner overawing complainant and other related witnesses and fleeing from the process of justice by not appearing in the Court is quite high. Dismissal of the petition has been prayed for.

6. I have heard the learned counsel for the parties and with their able assistance, perused the record available on record.

7. It is settled principle that grant of Bail is the rule and jail is the exception. Hon'ble Supreme Court in "***Gurbaksh Singh Sibbia V. State of Punjab***", ((1980) 2 SCC 5) held as under:-

"27. It is not necessary to refer to decisions which deal with the right to ordinary bail because that right does not furnish an exact parallel to the right to anticipatory bail. It is, however, interesting that as long back as in 1924 it was held by the High Court of Calcutta in [Nagendra v. King-Emperor](#) [AIR 1924 Cal 476, 479, 480 : 25 Cri LJ 732] that the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment. In two other cases which, significantly, are the 'Meerut Conspiracy cases' observations are to be found regarding the right to bail which deserve a special mention. In [K.N. Joglekar v. Emperor](#) [AIR 1931 All 504 : 33 Cri LJ 94] it was observed, while dealing with Section 498 which corresponds to the present Section 439 of the Code, that it conferred upon the Sessions Judge or the High Court wide powers to grant bail which were not handicapped by the restrictions in the preceding Section 497 which corresponds to the present Section 437. It was observed by the court that there was no hard and fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and that the only principle which was established was that the discretion should be exercised judiciously. In [Emperor v. Hutchinson](#) [AIR 1931 All 356, 358 : 32 Cri LJ 1271] it was said that it was very unwise to make an attempt to lay down any particular rules which will bind the High Court, having regard to the fact that the legislature itself left the discretion of the

court unfettered. According to the High Court, the variety of cases that may arise from time to time cannot be safely classified and it is dangerous to make an attempt to classify the cases and to say that in particular classes a bail may be granted but not in other classes. It was observed that the principle to be deduced from the various sections in the [Criminal Procedure Code](#) was that grant of bail is the rule and refusal is the exception. An accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. As a presumably innocent person he is therefore entitled to freedom and every opportunity to look after his own case. A presumably innocent person must have his freedom to enable him to establish his innocence.

28. Coming nearer home, it was observed by Krishna Iyer, J., in [Gudikanti Narasimhulu v. Public Prosecutor](#) [(1978) 1 SCC 240 : 1978 SCC (Cri) 115] that: (SCC p. 242, para 1)

“... the issue of bail is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitized judicial process. . . . After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of procedure established by law. The last four words of [Article 21](#) are the life of that human right.”

29. In [Gurcharan Singh v. State \(Delhi Administration\)](#) [(1978) 1 SCC 118 : 1978 SCC (Cri) 41] it was observed by Goswami, J., who spoke for the court, that: (SCC p. 129, para 29)

“29“There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail.”

30. In AMERICAN JURISPRUDENCE (2d, Volume 8, p.806, para 39), it is stated:

“Where the granting of bail lies within the discretion of the court, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the court, the primary inquiry is whether a recognizance or bond would effect that end.”

It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail.”

In view of the submissions advanced by the learned counsel for the petitioner but without advertng to the merits of the case, the Court is of the opinion that no useful purpose would be served by further detention of the

petitioner (who has been in custody since 20.06.2025), as the same, without the prospect of trial being concluded in the near future (as none of the prosecution witnesses have been examined till date), would be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial and would, thus, also be against the principle of “*Bail is a general rule and incarceration is an exception*” as held by Hon’ble Supreme Court in ***Dataram vs. State of Uttar Pradesh and another, 2018(2) R.C.R. (Criminal) 131.***

Resultantly, petitioner is granted the concession of bail subject to his furnishing bail/surety to the satisfaction of the learned Additional Sessions Judge/trial Court concerned. The petitioner shall abide by the following conditions:-

- (i) The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*
- (ii) The petitioner will not tamper with the evidence during the trial.*
- (iii) The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- (iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- (v) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- (vi) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- (vii) The petitioner shall not in any manner misuse his liberty.*
- (viii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the*

conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.

(ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AARADHNA SAWHNEY)
JUDGE

23.01.2026
Nisha Yadav

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>