



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

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CRM-M No.58934 of 2025 (O&M)

Date of Decision: 05.02.2026

Rajeev Kumar @ Abhi**.....Petitioner****Versus****State of Punjab****..... Respondent****CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH**

Present: Mr. Hitesh Chopra, Advocate for the petitioner
(through hybrid mode).

Mr. I.P.S. Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

The petitioner, who is in custody since 25.08.2025, has filed the present petition for bail with regard to commission of offence punishable under Sections 197(1) and 353(1) of Bharatiya Nyaya Sanhita, 2023, hereinafter being referred to as 'BNS', arising out of FIR No.11 dated 17.06.2025, Police Station Cyber Crime Tehsil and District Pathankot. This is Ist petition for bail, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023, hereinafter being referred to as 'BNSS'.

2. Briefly stating the facts emerging from record are that during routine cyber patrolling the cyber Cell of District Police Pathankot landed to a message on social media whereby the gangsters namely 'Rajeev Kumar @ Abhi' was being glorified. Since it was observed that by circulation of above mentioned message, the above named gangster, who was already in custody, was being glorified, and the gun culture and gangsterism was being promoted,



the above mentioned FIR was lodged and the petitioner was taken into custody.

3. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record. No formal reply has been filed by the State. However, the learned State counsel has opted to orally oppose the present petition.

4. Heard.

5. The record has been perused carefully.

6. If the facts and circumstances of the present case are analyzed in the light of above-mentioned principles of law, it transpires that:-

- i) that the petitioner is already in custody for a period of more than 5 months and 10 days;
- ii) that the maximum punishment prescribed for the commission of offence allegedly committed by the petitioner is imprisonment up to 3 years;
- iii) that there is nothing on record to show that any device in possession of petitioner was used for circulation of above mention message;
- iv) that the person who circulated the message has not yet been arrested;
- v) that nothing incriminating material has been recovered from the possession of petitioner;
- vi) that nothing is left to be recovered from the possession of petitioner;
- vii) that the trial is not likely to be concluded in near future;



- viii) that detention of petitioner in 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.

7. 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) 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”.

8. 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”.

9. 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”.

10. 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 an undertrial prisoner, as mandated by Hon’ble Apex court in ‘Balwinder Singh versus State of Punjab and another’ 2024 SCC Online SC 4354.

11. 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.

12. 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

05.02.2026
Manoj Bhutani

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