



CRM-M-59831-2025 (O&M) -1-

(231) IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-59831-2025 (O&M)  
Date of decision : 12.01.2026

SHIV DASS @ SHIVA

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA (ORAL)

Present: Mr. Anil Mehta, Advocate with  
Mr. Nishant Indal, Advocate and  
Mr. Kartik Mehla, Advocate for the petitioner

Mr. Roshandeep Singh, AAG, Punjab

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**MANISHA BATRA, J. (ORAL)**

1. The present petition has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking grant of regular bail in case arising out of FIR No.167 dated 15.11.2022 registered under Sections 302, 307, 323 and 34 of IPC (Section 302 IPC added later on) registered at Police Station Division No.2, District Jalandhar.

2. The aforementioned FIR was registered on the basis of statement recorded by the complainant Vansh on 15.11.2022 alleging therein that on the night of 14.11.2022, he alongwith his friend Kunal had gone to a Dhaba where 3-4 youths were found standing. Kunal had



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asked those persons to get his mobile phone repaired but they had opened an attack upon them and had inflicted injuries on the person of Kunal with a datar, the complainant also sustained injuries with the same weapon on his head. He had identified one of them as Shamsher Singh @ Shera and prayed for taking action. Initially a case under Section 307,323 and34 of IPC was registered and on 16.11.2022, Section 302 of IPC was added. The complainant Vansh recorded his supplementary statement on 16.11.2022 on the basis of which the present petitioner alongwith the co-accused Deepak and one Gurpreet @ Gora were nominated as additional accused. The petitioner was arrested on 19.11.2022. He too suffered disclosure statement admitting his involvement in the crime and got recovered the baseball used by him in the occurrence. Investigation now stands concluded.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He was not named in the FIR. His name was taken after the incident by the complainant. The complainant has not supported the prosecution version and has turned hostile. There is no other eye-witness to the occurrence. The trial will take considerable time to conclude as only 04 witnesses have been examined so far. He has clean antecedents. There is no incriminating evidence to connect him with the crime. The co-accused who was a juvenile (child in conflict with law) already stands acquitted. His continued detention would not serve any useful purpose. It is, thus, urged that the petition deserves to be allowed.



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4. Status report and custody certificate have been filed. Learned State counsel has argued that keeping in view the gravity of the allegations as levelled against the petitioner, he does not deserve to be extended benefit of bail.

5. This Court has heard the rival submissions made by the counsels for the parties at considerable length.

6. The petitioner in furtherance of his common intention with the co-accused is alleged to have made an attempt to kill the complainant and have caused homicidal death of the victim Kunal. He was named after three days of the incident by the complainant. The petitioner has placed on record Annexure P-11 i.e. copy of sworn deposition of the complainant as recorded before the learned Trial Court which shows that he has not supported the prosecution version and has not implicated the petitioner in the commission of subject offences. The trial will obviously take time to conclude as several witnesses are yet to be examined. The petitioner is in custody for a period of over 03 years 01 month and 19 days. It is well-settled law that the Court, while considering an application for grant of bail, has to keep certain factors in mind such as whether there is a prima facie case or reasonable ground to believe that the accused has committed the offence, circumstances which are peculiar to the accused, likelihood of the offence being repeated, the nature and gravity of the accusation, severity of the punishment in the event of conviction, the danger of the accused absconding or fleeing if released on bail, and reasonable apprehension of the witnesses being threatened,



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etc. However, at the same time, the period of incarceration is also a relevant factor to be considered while deciding whether bail should be granted to an accused charged with an offence. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody for an indefinite period of time, and the bail application can be considered on its own merits even if it is filed repeatedly. It has also been held that every day spent in custody can provide a new cause of action for filing a bail application under certain circumstances. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the rights of the accused with the requirements of the criminal justice system. Only 04 witnesses have been examined by the prosecution till now. Obviously, the petitioner is not required for further investigation. Reliance in this regard can be placed on the observations made by the Hon'ble Apex Court in ***Mohd. Muslim @ Hussain v. State (NCT of Delhi), 2023 SCC OnLine SC 352***, wherein it was observed that the jails are overcrowded and their living conditions are, more often than not, appalling. The danger of unjustified imprisonment is that inmates are more likely to be hardened rather than reformed. Reliance can also be placed upon ***Manmandal and Another v. State of West Bengal, Special Leave Petition (Criminal) No. 8656 of 2023 decided on 14.09.2023*** and ***Rabdi Prakash v. State of Odisha, 2023 SCC OnLine SC 110***, wherein bail was granted to the accused who had been incarcerated for a period of almost two to three years and the trial was likely to take considerable time. By observing that prolonged



incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution.

7. On analyzing the peculiar facts and circumstances of the present case in the light of the aforementioned principles of law, it transpires that the petitioner has suffered prolonged incarceration for a period of 03 years 01 month and 19 days, the nature of testimony of complainant, the fact that the trial is not likely to be concluded in near future as only 04 witnesses has been examined; the continued detention of the petitioner is not likely to serve any fruitful purpose; there is nothing on record to show that if released on bail, the petitioner will not participate in the trial or will abscond.

8. In view of the above discussion, this Court is of the opinion that a case is made out for grant of bail to the petitioner at this stage. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail on furnishing personal as well as surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned and on the following conditions:-

- (i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case in any manner whatsoever.
- (ii) The petitioner shall not leave the country under any circumstance without permission of the learned trial Court.

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(iii) The petitioner shall appear before each and every date of hearing.

(iv) The petitioner shall provide his address where he would be residing after release and shall not change the same without informing the concerned IO/SHO.

(v) The petitioner shall upon his release give his mobile phone number to concerned IO/SHO and shall keep his mobile phone switched on all times.

(vi) The petitioner shall surrender his passport, if any, furnish details of his cell phone and Aadhaar card, and shall not change his mobile number(s) during the pendency of the trial.

9. In the event of there being any FIR/complaint lodged against the petitioner, it shall be open to the respondent to seek redressal by filing an application seeking cancellation of bail.

10. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

**(MANISHA BATRA)**  
**JUDGE**

**12.01.2026**  
**Amit Sharma**

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