



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CRM-M No.60995 of 2025
Date of decision : 11.2.2026
Date of uploading : 11.2.2026

PremwatiPetitioner
Versus
State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Baljinder Singh, Advocate, for the petitioner
Ms. Priyanka Sadar, Senior DAG, Haryana
Mr. Ankit Yadav, Advocate, for the complainant

SUMEET GOEL, J. (ORAL)

1. Present second petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.625 dated 12.8.2019 under Sections 302, 201, 120-B and 34 of the IPC, registered at Police Station Sadar Palwal.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'TO, SHO Officer, Police Station Sadar Palwal, sir, my name is Bir Singh, son of Dulhe Ram, a resident of village Allika, Tehsil Palwal, District Palwal. My wife, Bishandevi, went to sleep at around 11 am. We woke up at around 4 am and found her missing from her bed. We tried to look for her but could not find her anywhere. Around 9 pm, a neighbor told us that they saw someone's hand lying in the garbage. This entire incident



occurred at the old school. The neighbor said she had come to tie her buffalo as usual. Bishandevi never went anywhere in the morning or at night. We have no quarrels or animosities with anyone in our village. We do not suspect anyone. Some unknown person murdered my wife. I request you to take the strictest possible action. Thanks SD- BIRSINGH Bir Singh 12.08.19.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 8.10.2019. Learned counsel has further submitted that the case in hand is not an eye-witness account but is based on disclosure statement. Learned counsel has further argued that that the petitioner is a lady who has suffered incarceration for more than 6 years and the trial is yet to conclude. Learned counsel has further argued that the premise of the prosecution case is illicit relationship of the petitioner with co-accused Narender but the husband of the petitioner, while deposing as a prosecution witness, has denied any illicit relationship. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 10.2.2026 in Court, which is taken on record.

4.1 Learned counsel for the complainant has vehemently opposed the grant of bail on the ground that there are direct and serious allegations and in case the petitioner is extended the concession of regular bail, there is all the likelihood of the petitioner to flee from the process of justice and to interfere with the remaining prosecution witnesses.



5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 8.10.2019 and stated to be in continuous custody since then. Upon culmination of investigation, challan was prepared on 21.1.2019 and subsequently filed, wherein total 27 prosecution witnesses have been cited. It is not in dispute that 16 witnesses already stand examined as also the fact that all private prosecution witnesses stand examined. The rival contentions raised by learned counsel give rise to debatable issues which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1 The petitioner is a lady aged about 34 years (As per memo of parties appended with the petition), hence, bail petition ought to be considered in view of proviso to Section 480(2) BNSS. It is pertinent to mention herein that the proviso to Section 480 BNSS, 2023, is *pari materia* with proviso to Section 437 Cr.P.C., 1973. In this regard, it would be apposite to refer herein to a judgment passed by this Court on 14.03.2024 in **CRM-M-11503-2024** titled as '**Ravinder Kaur Vs. State of Punjab**' (dealing with proviso to Section 437 Cr.P.C.), relevant thereof reads as under:

"It would be apposite to refer herein to the dicta of a judgment of the Hon'ble Supreme Court in a case of 'Satender Kumar Antil Vs. Central



Bureau of Investigation & Anr., 2022(10) SCC 51' , which held as under:

51. Proviso to Section 437 of the Code mandates that when the accused is under the age of sixteen years, sick or infirm or being a woman, is something which is required to be taken note of. Obviously, the court has to satisfy itself that the accused person is sick or infirm. In a case pertaining to women, the court is expected to show some sensitivity. We have already taken note of the fact that many women who commit cognizable offenses are poor and illiterate. In many cases, upon being young they have children to take care of, and there are many instances when the children are to live in prisons. The statistics would show that more than 1000 children are living in prisons along with their mothers. This is an aspect that the courts are expected to take note of as it would not only involve the interest of the accused, but also the children who are not expected to get exposed to the prisons. There is a grave danger of their being inherited not only with poverty but with crime as well.

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58. Section 437 of the Code empowers the Magistrate to deal with all the offenses while considering an application for bail with the exception of an offense punishable either with life imprisonment or death triable exclusively by the Court of Sessions. The first proviso facilitates a court to conditionally release on bail an accused if he is under the age of 16 years or is a woman or is sick or infirm, as discussed earlier. This being a welfare legislation, though introduced by way of a proviso, has to be applied while considering release on bail either by the Court of Sessions or the High Court, as the case may be. The power under Section 439 of the Code is exercised against an order rejecting an application for bail and against an offence exclusively decided by the Court of Sessions. There cannot be a divided application of proviso to Section 437, while exercising the power under Section 439. While dealing with a welfare legislation, a purposive interpretation giving the benefit to the needy person being the intendment is the role required to be played by the court. We do not wish to state that this proviso has to be considered favourably in all cases as the application depends upon the facts and circumstances contained therein. What is required is the consideration per se by the court of this proviso among other factors.'

6.2 As per custody certificate dated 10.2.2026 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 6 years, 4 months and 3 days & is not shown to be involved in any other IPC offence.

6.3 Indubitably, the present petition is the 2nd attempt by the petitioner to secure regular bail. The last bail plea preferred by the petitioner was dismissed on 8.1.2021. Keeping in view the factual *milieu* of the case in hand, especially extended incarceration of the petitioner and



no substantial progress in trial, this Court is inclined to favourably consider the instant plea for bail. A profitable reference, in this regard, can be made to a judgment of this Court passed in **CRA-S-2332-2023** titled as ***Rafiq Khan versus State of Haryana and another***; relevant whereof reads as under:

“10. As an epilogue to the above discussion, the following principles emerge:

I. Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III. For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV. No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V. In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However,



in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

11.2.2026
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No