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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

224

CRM-M No.63500 of 2025
Date of Decision: 02.02.2026

Sahil @ Sonu @ Makkad ... Petitioner

Versus

State of Haryana and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Deepam Ragav, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking regular bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
128	06.04.2023	Meham, District Rohtak	148, 149, 120-B, 302, 341 and 506 of IPC and 25, 27(1) and 29A of Arms Act, 1959

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint submitted by the complainant Mohit on

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06.04.2023 alleging therein that on the same day, his younger brother Sumit @ Sethi and his friend Ankush were intercepted by the present petitioner and the co-accused when they were passing through the street in front of the house of the petitioner. Their vehicle was stopped. An assault was opened upon them by firing continuous shots with pistol. On hearing noises, the complainant rushed at the spot and saw the petitioner and others while making exhortations that having enmity with them was going to prove costly for the victim. On seeing the complainant, they fled away. The injured Sumit and Ankush were rushed to the hospital but Sumit succumbed to the injuries. After registration of FIR, investigation proceedings were initiated. Postmortem examination the dead body of Sumit was conducted. The complainant recorded a supplementary statement on 14.04.2023 on the basis of which some other accused were nominated. The accused Parveen Kumar was arrested on 26.04.2023. The petitioner was arrested on 22.05.2023. Another accused namely, Sahil @ Goga was also arrested. On interrogation, the petitioner suffered disclosure statement admitting his involvement in the subject crime. On the basis of his disclosure statement, the co-accused Sandeep @ D.C. was nominated as additional accused and a motorcycle used by the accused for escaping from the spot had been recovered at this instance. He also got recovered the DVR of CCTV camera installed at his house. Investigation now stands concluded.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. No injury on the person of the victims

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has been attributed to him. He is in custody for a period of over two years and eight months. The complainant had reached at the spot after the occurrence and was not an eye-witness. The involvement of petitioner in other cases cannot be considered to be a ground for denying benefit of bail. Co-accused Parveen Kumar has been extended benefit of bail. On parity, he too deserves to be extended the same benefit. No useful purpose would be served by keeping him in custody any more. It is, therefore, argued that the petitioner deserves to be released on bail.

4. Status report and custody certificate have been filed. Learned Assistant Advocate General, Haryana has vehemently argued that the allegations against the petitioner are serious in nature. He in prosecution of common object of unlawful assembly formed with the co-accused had actively participated in the occurrence. His presence was seen in the CCTV footage of the camera installed in his own house. The case of petitioner is not at parity with the case of the co-accused. It is, therefore, argued that the petition does not deserve to be allowed.

5. This Court has considered the rival submissions.

6. The petitioner is alleged to have formed membership of an unlawful assembly with the co-accused and in prosecution of common object thereof, is alleged to have fired shots on the victims thereby causing homicidal death of one of them and sustaining injuries by the other. He was named in the FIR. Though, from the allegations, no injury on the person of the victims has been attributed to him, however, his presence at the spot

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prima facie stands established. He has been linked to the acts attributed with the aid of Section 149 IPC, which has the following ingredients;

1. There must be an unlawful assembly;
2. Commission of an offence may be by any member of the unlawful assembly; and
3. Such offence must have been committed in prosecution of the common object of the assembly, or must be such as the members of the assembly knew to be likely to be committed.

7. From a perusal of the above ingredients, it is apparent that even mere presence in the unlawful assembly but with an active mind to achieve the common object, makes a person vicariously liable for the acts of the unlawful assembly. Under Section 149 of IPC, the liability of the other members, for the offence committed during the continuance of the occurrence rests upon the fact whether the other members knew before hand that the offence actually committed was likely to be committed in prosecution of the common object or not. Such knowledge can reasonably be collected from the nature of the assembly, the weapon used, the behaviour of the participants at or before the scene of action. The allegations against the petitioner are serious in nature as he along with the co-accused stands accused of a heinous crime punishable with capital punishment or life imprisonment. The allegations prima facie show his clear involvement in the occurrence while having knowledge that the subject offences were likely to

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be committed in prosecution of common object. It is well-settled proposition of law that grant of bail is a discretionary relief to be granted or denied based on specific facts and circumstance of each case and there cannot be any exhaustive parameters set out for considering the application for grant of bail. The factors such as nature of accusations, severity of punishment if the accusations entail a conviction and nature of evidence in support of accusations are to be seen. That apart, reasonable apprehension of tampering with evidence or threatening the material witnesses is also to be weighed. Frivolity of prosecution should always be considered, and it is only the element of genuineness that has to be considered in the matter of grant of bail.

8. In the light of the foregoing legal principles and the other circumstances discussed above coupled with the fact that the case of the petitioner cannot be considered at parity with the case of the co-accused Parveen Kumar who has been extended benefit of bail since he was not named in the FIR, this Court finds no compelling ground to allow the petition. Accordingly, the same is dismissed.

9. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

02.02.2026
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(MANISHA BATRA)
JUDGE