

CRM-M-64670-2025

2026:PHHC:011890

113 (3rd case)**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-64670-2025

Abhay Raj

....Petitioner

versus

State of Punjab

....Respondent

Date of decision: January 28, 2026

Date of Uploading: January 29, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Akshay Jindal, Senior Advocate with
Mr. Chetan Goyal, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

Mr. Sanjeev K. Virk, Advocate
(presence marked through video-conferencing) and
Ms. Deepika Verma, Advocate for the complainant.

SUMEET GOEL, J. (ORAL)

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 bearing FIR No.70 dated 15.05.2025, under Sections 109, 103(1), 190, 191(3) of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS'), registered at Police Station Satnampura, Phagwara, District Kapurthala.

2. The gravamen of the FIR in question is that the injured, namely, Ahmad Mohamed Nour Ahmed Hussen stated that on 15.05.2025, he went to perform *Namaz* along with his friend Mohammad Wada Bala Yousif Ahmed (since deceased) and three girls, namely, Ethar Youssry Salih Mohammed Ahmed, Narmeen Omer Abdalla Edris, and Fatimaelzahara Amir Tagelsir Mahgoub. When they reached just outside the said premises, they were accosted by six to seven unknown persons standing there. The assailants started enquiring about the girls phone numbers and when the injured tried to intervene and restrained them, the accused persons initiated a fight. All the accused, out of whom two were armed with knives, caught hold of him (deceased) and his friend. The said accused stabbed the injured and his friend on the left side of the chest. Upon raising hue & cry, all the accused fled from the spot. And Prabhat Dubey arrived at the scene and took both injured persons to Johal Hospital. Where, Mohammad Wada Bala Yousif Ahmed was declared *brought dead*, while the injured was admitted to the hospital on account of serious injuries sustained by him.

3. Learned Senior counsel for the petitioner has argued that the petitioner is in custody since 15.05.2025. Learned Senior counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned Senior counsel has iterated that the petitioner was not named in the FIR and his named surfaced on the basis of a disclosure statement made by a co-accused and the said disclosure is inadmissible in evidence being limited evidentiary value in law and the same cannot be taken against the petitioner. Learned Senior counsel has iterated that

statement(s) of three eye witnesses was recorded by the police, but none of them have named the petitioner in their statement(s). Learned Senior counsel has further argued that there is nothing on record to connect the petitioner with the crime in question there being no independent incriminating material or recovery from the petitioner.

3.1. Learned Senior counsel has goes on to state that no recovery is stated to have been made from the petitioner and the petitioner has been wrongly implicated, in this case. Learned Senior counsel has urged that the petitioner is 22 years old young student. Learned Senior counsel has further urged that the petitioner has suffered incarceration for more than 08 months with clean antecedents and no useful purpose would be served by keeping him behind bars further. Thus, regular bail is prayed for.

4. *Per contra*, learned State counsel has opposed the grant of regular bail to the petitioner by arguing that there are direct/ serious allegations against the petitioner. Learned State counsel has argued that the petitioner had committed the murder of the deceased and had also inflicted dangerous to life injuries on the chest of the complainant. Learned State counsel has submitted that challan against the petitioner has been presented on 07.08.2025. Learned State counsel seeks to place on record custody certificate dated 28.01.2026, in the Court today, which is taken on record.

4.1. Learned counsel for the complainant has also vehemently opposed the grant of regular bail to the petitioner by arguing that there are direct/ serious allegations against the petitioner. The petitioner along with his co-accused had committed the murder of the deceased and had also

inflicted injuries dangerous to life on the chest of the complainant. Learned counsel has further argued that, in case, the petitioner is accorded the concession of regular bail, there is all likelihood of him tampering the prosecution evidence and also intimidate the prosecution witnesses. On the strength of these submissions, the dismissal of the petition in hand is prayed for.

5. I have heard learned counsel for the rival parties and have perused the paper-book.

6. A perusal of the case record indicates that on the date of occurrence, the petitioner along with his co-accused stabbed the deceased with knives, which resulted in his death. The petitioner and his other co-accused had also inflicted injuries on the chest of the complainant, which was declared dangerous to life. The whole incident is stated to have been recorded in the CCTV footage.

7. The grant of bail falls within the discretionary domain of the court; however, such discretion must be exercised in a judicious and principled manner, ensuring it aligns with established legal precedents and the interests of justice. While considering a bail application, the Court must evaluate factors such as the existence of *prima facie* evidence implicating the accused, the nature and gravity of the alleged offence, and the severity of the likely sentence upon conviction. The Court must also assess the likelihood of the accused absconding or evading the due process of law, the probability of the offence being repeated and any reasonable apprehension of the accused tampering with evidence or influencing witnesses. Additionally, the

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character, antecedents, financial means, societal standing and overall conduct of the accused play a crucial role. Furthermore, the Court must weigh the potential danger of bail undermining the administration of justice or thwarting its due course. A profitable reference in this regard is made to the judgment passed by the Hon'ble Supreme Court titled as *State through C.B.I. vs. Amaramani Tripathi, 2005 AIR Supreme Court 3490*, relevant whereof reads as under:

*“14. It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (see **Prahlad Singh Bhati v. NCT, Delhi, 2001(2) RCR (Criminal) 377 (SC) :2001(4) SCC 280 and Gurcharan Singh v. State (Delhi Administration), AIR 1978 Supreme Court 179**). While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. We may also refer to the following principles relating to grant or refusal of bail stated in **Kalyan Chandra Sarkar v. Rajesh Ranjan, 2004(2) RCR (Criminal) 254 (SC) :2004(7) SCC 528** :“The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:*

a. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

b. Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

*c. Prima facie satisfaction of the court in support of the charge. (see **Ram Govind Upadhyay v. Sudarshan Singh, 2002(2) RCR (Criminal) 250 (SC) : 2002(3) SCC 598 and Puran v. Ram Bilas, 2001(2) RCR (Criminal) 801 (SC) : 2001(6) SCC 338**.”*

This Court also in specific terms held that :

*“the condition laid down under section 437(1)(i) is sine qua non for granting bail even under section 439 of the Code. In the impugned order it is noticed that the High **Court** has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.”*

8. The petitioner is accused of committing a capital offence punishable with death or imprisonment for life and is facing trial therein.

The instant case pertains to a heinous and brutal offence of murder, wherein the petitioner acting in concert with his co-accused is alleged to have attacked the complainant and the deceased, namely, Mohammad Wada Bala Yousif Ahmed. As per the prosecution version, the assault was not spontaneous but concerted and a violent act, thereby reflecting the ferocity and intent underlying the offence.

9. A perusal of the record further reveals that the offence allegedly committed by the petitioner and his co-accused is grave, serious and of an aggravated nature involving use of deadly force and resulting of loss of human life. Additionally, learned Additional Sessions Judge, Kapurthala, while declining the bail application of the petitioner, vide impugned order dated 11.08.2025, has specifically observed that grave and serious allegations supported by *prima facie* material have been attributed to the petitioner and his co-accused. The Court below further observed that the

petitioner and his co-accused stabbed the deceased, which resulted in his death and also inflicted injuries on the chest of the complainant, which were declared dangerous to life. The whole incident is substantiated/ corroborated from the CCTV footage also.

10. The arguments raised at bar give rise to debatable issues which shall be ratiocinated upon during trial. As per prosecution case, total 30 prosecution witnesses have been cited and out of which, none is stated to have been examined. Therefore, revealing that the trial is at nascent stage.

11. The allegations leveled against the petitioner are specific, grave and were defined, which *prima facie* indicate his active participation in the commission of the offence. In the considered opinion of this Court the very magnitude, brutality and seriousness of the crime clearly disentitle the petitioner to the discretionary relief of bail. In the considered opinion of this Court, at this stage, no accentuating circumstances have been made which may, *prima facie*, constitute a compelling ground for the grant of regular bail to the petitioner, especially in light of the gravity of the allegations and the evidence on record. It also deserves emphasis that offences of this nature strike at the very root of public order rule of law and societal conscience. Grant of bail in such cases may send a wrong signal to society and undermine public confidence in the administration of criminal justice. Furthermore, there exists a real and tangible apprehension that if enlarged on bail, the petitioner may abscond to evade trial or attempt to influence, threaten, or intimidate prosecution witnesses especially when several

material witnesses are yet to be examined and the prosecution evidence is still to unfold.

12. Considering the overall facts and circumstances, as discussed hereinabove, this Court finds no merit in the present petition. Accordingly, this Court is of the considered opinion that the petitioner does not deserve the concession of regular bail. Accordingly, the petition is, thus, devoid of merits and is hereby dismissed.

13. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.

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

15. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

January 28, 2026
mahavir

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