

2026:PHHC:016835



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.66405 of 2025

Tayyub Hussain @ Taiyyab Hussain ... Petitioner

Versus

State of Haryana ... Respondent

1.	The date when the judgment is reserved	02.02.2026
2.	The date when the judgment is pronounced	05.02.2026
3.	The date when the judgment is uploaded on the website	05.02.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Abhishek Jindal, Advocate and
Mr. Mithun, Advocate,
for the petitioner.

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

Mr. Vinay Kumar Pandey, Advocate,
for the complainant.

2026:PHHC:016835



MANISHA BATRA, J.

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
22	08.02.2025	Ferozepur Jhirka, District Nuh	115, 190, 191(2) and 351(2) of the Bharatiya Nyaya Sanhita, 2023 (For short “BNS”) (3(5), 117(3), 115(2), 227(2) and 209 of BNS added later on)

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a complaint submitted by the complainant Sajid on 08.02.2025 alleging that the petitioner and the co-accused Sadiq, Fazru, Abid and Shahrukh etc. had been harassing his brother Majid and other family members by using their fuel wood and cow dung cakes and despite being repeatedly told to not to do so, they did not mend their behaviour. He alleged that on 23.01.2025, accused Sadiq and Shahrukh, extracted honey from the honey bee hive growing over the wood belonging to the complainant and accused Sadiq started consuming honey in presence of his brother Majid. When Majid asked the accused Sadiq and Shahrukh, the reason for doing so, they proclaimed that they would teach him a lesson. Then on the night of 24.01.2025, the petitioner along with the above named accused opened an assault upon his brother Majid by forming an unlawful assembly. The petitioner struck a blow with a

2026:PHHC:016835



lathi on his left arm, accused Sadiq struck blow with an iron rod and others gave fist blow and kicks to the victim. On getting information, the complainant along with others rushed to the spot and the other accused namely, Janni, Sameena and Irfana threw brickbats and opened attack upon them also. The complainant and his companions somehow saved themselves and took the victim Majid who was in critical condition to hospital. Initially, a case under Sections 190, 191(2), 115(2) and 351(2) of BNS was registered. Subsequently, on the basis of report of the doctor, offences under Sections 117(2) and 109 of BNS were added. The petitioner and co-accused Sadiq were arrested on 23.04.2025. The petitioner suffered disclosure statement admitting his involvement in the crime and got recovered the stick used by him at the time of occurrence. Investigation now stands completed and the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Seven of the persons named in the FIR have been found to be innocent thereby proving falsity of the version of the complainant. There is no convincing material on record to establish presence of the petitioner at the spot of occurrence at the relevant time. No injury on vital part of body of the victim has been attributed to him and the injury so attributed has been opined to be simple in nature. There is delay of 15 days in lodging of the FIR which has not been explained. He is in custody since long. The complainant and some other material witnesses have already been

2026:PHHC:016835



examined. There are no chances of his intimidating them. His further incarceration would not serve any useful purpose. It is, thus, argued that he deserves to be released on bail.

4. Status report has been filed. Learned Assistant Advocate General, Haryana assisted by learned counsel for the complainant has vehemently argued that there are serious and specific allegations against the petitioner who formed membership of an unlawful assembly with the co-accused and in prosecution of common object thereof, had opened an attack upon the victim thereby causing serious injuries on his person including a head injury. As per the report of Board of doctors constituted for the purpose of giving opinion as to the condition of the victim, due to the impact of the injuries sustained by the victim on his head which was infact depressed fracture on left temporo parietal region with underlying contusion with dysarthria with right hemiparesis, the victim suffered cognitive impairment in the form of attention deficit, receptive aphasia, impaired naming and only occasionally comprehended that too with limited words. It is argued that the victim has become a permanently disabled person whose speech has also been affected materially. It is submitted that the victim is yet to be examined. There are chances of petitioner's intimidating him and other material witnesses, if extended benefit of bail. It is, hence, 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

2026:PHHC:016835



unlawful assembly with the co-accused and in prosecution of common object thereof, is alleged to have opened an attack upon the victim Majid and to have inflicted injuries on his person. The injury sustained by the victim on his head is proved to be serious in nature as the victim is suffering from cognitive impairment in the form of attention deficit, receptive aphasia, impaired naming and occasionally comprehends that too with limited words etc. This injury might not have been directly attributed to the petitioner, however, he has been linked to the acts attributed with the aid of Section 190 of BNS 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. It is apparent from the perusal of these ingredients that mere presence of an accused in the unlawful assembly but with an active mind to achieve the common object, makes him vicariously liable for the acts of unlawful assembly. Under Section 190 of BNS, 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 beforehand that the offence actually committed was likely to be committed in

2026:PHHC:016835



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 petitioner is alleged to have joined the co-accused and opened an attack upon the victim and these allegations prima facie show his active participation in the occurrence while having knowledge that the offences for which he has been booked were likely to be committed in prosecution of common object. The allegations against him are serious in nature and the length of incarceration cannot overshadow the gravity thereof. The victim is yet to be examined. The 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 parameter 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 light of the foregoing legal principles and other circumstances as discussed above, this Court finding no compelling ground to allow this petition. Accordingly, the petition is dismissed.

9 It is clarified that any observation made in this order is only for deciding this petition and shall not influence the outcome of the trial and



also not be taken as an expression of opinion on merits.

05.02.2026
manju

(MANISHA BATRA)
JUDGE

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