



CRA-S-3656-2025 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

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CRA-S-3656-2025 (O&M)

Date of decision : 03.02.2026

Tushar

..... Appellant

VERSUS

State of Haryana & Anr.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Parveen Sharma, Advocate for the petitioner.

Ms. Deepali Verma, Asst. A.G. Haryana.

SURYA PARTAP SINGH, J.

1. The appellant has filed the present appeal under Section 14-A of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989, hereinafter being referred to as the 'SC and ST Act'. It has been filed to challenge the impugned order dated 11.11.2025 passed by the Court of learned Additional Sessions Judge, Sonipat, whereby, the bail application filed by the appellant was dismissed in a case arising out of FIR No.382 dated 17.11.2023 under Sections 346 of IPC, 1860 [Section 346 of IPC deleted and Sections 120-B, 201, 302, 34, 364 of IPC, 1860 and Section 3(2)(v) of SC and ST Act added later on], Police Station HSIIDC Barhi, District Sonipat.

2. Briefly stating the facts emerging from the record are that the FIR of this case came into being in the backdrop of following facts.

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According to prosecution, on 17.11.2023 Smt. Manisha, hereinafter being referred to as 'complainant' only, submitted a complaint in Police Station HSIIDC Barhi, District Sonipat and stated therein that her husband, namely 'Lakhan' had left home on 13.11.2023 without disclosing anything and that he was missing since then.

3. It is the case of the prosecution that on the basis of abovementioned complaint the FIR for the commission of offence punishable under Section 346 IPC was lodged and the investigation taken up. According to prosecution during the course of investigation, the statement of Satish (brother of missing person Lakhan) was recorded, who stated that he had suspicion that 'Tushar' (appellant herein), 'Mohit', 'Shubam' and 'Deepanshu' might have kidnapped his brother.

4. As per prosecution in view of above mentioned statement when inquiries from 'Tushar' were made, he disclosed that he had hatched a conspiracy with his friends namely 'Shubham', 'Gagan' and 'Ankit', and that pursuant to abovesaid conspiracy he had kidnapped 'Lakhan' on 13.11.2023 and killed him. It is the case of the prosecution that in view of abovementioned disclosure statement Sections 302, 201, 364 read with Section 34 IPC and Section 3(2)(v) of SC and ST Act were invoked in the present case.

5. Heard.

6. It has been contended by learned counsel for the appellant that the present case is a case, wherein there is no eye-witness account and the



entire prosecution case is resting upon circumstantial evidence. According to learned counsel for the appellant except the confessional statement of appellant, recorded in police custody, there is no other evidence showing nexus of appellant with the commission of crime, and that with regard to admissibility of abovementioned evidence there is a big question mark. It has also been contended by learned counsel for the appellant that the benefit of bail has already been accorded to the co-accused, whose case stands on the same footing.

7. In addition to above, the learned counsel for the appellant has also argued that otherwise also, the appellant has already suffered a prolonged incarceration for being in custody for a period of more than 02 years, and that the trial is not likely to be concluded in near future.

8. *Per contra*, the learned State Counsel has argued that allegations against the appellant are of serious nature, i.e. commission of murder, and that there is direct nexus between the offence and the accused. According to learned State counsel, if released on bail the appellant may tamper with the evidence and influence the witnesses.

9. The record has been perused carefully.

10. A perusal of the record shows that there are several factors which are required to be taken into consideration at this stage. Those factors are:-

- i) that the appellant is already in custody for a period of more than 02 years and 01 month;



- ii) that the case of the appellant stands on a footing similar to the case of co-accused, namely Ankit, Shubham, and Rohit, who have been afforded the benefit of bail by this Court:
- iii) that nothing is left to be recovered from the possession of appellant;
- iv) that the appellant has no criminal antecedents;
- v) that the trial of the case is not likely to be concluded in near future;
- vi) that detention of appellant in judicial lock-up is not likely to serve any purpose;
- vii) that there is nothing on record to show that if released on bail, the appellant may tamper with the evidence or influence the witnesses; and
- (viii) that there is nothing on record to show that if released on bail, the appellant will not co-operate/participate in the trial.

11. With regard to fact situation of present case, the principles of law laid down by the Hon'ble Supreme Court in the case of "Dataram versus State of Uttar Pradesh and another", 2018(2) R.C.R. (Criminal) 131, are relevant, wherein it has been observed that "a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a



correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

12. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil Vs. Central Bureau of Investigation and Another’, (2022) 10 SCC 51, are also relevant in this case. In the abovementioned case, it has been observed that “the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.



13. Recently, in the case of ‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2025 SCC Online SC 322, the Hon’ble Supreme Court of India has observed that “if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that “delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”.

14. To elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as mandated by Hon’ble Apex court in “Balwinder Singh versus State of Punjab and Another”, 2024 SCC Online SC 4354.

15. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the appellant is entitled for the benefit of bail, and that the present appeal deserves to be allowed.

16. Accordingly, without commenting anything on the merits of the case, the present appeal is hereby *allowed*. The appellant is hereby ordered

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to be released on bail on his furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However the abovementioned concession shall be subject to following conditions:-

- (i) that the appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.
- (ii) that the appellant shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- (iii) that the appellant shall not leave India without prior permission of the trial Court.

(SURYA PARTAP SINGH)
JUDGE

03.02.2026*Gaurav Thakur*

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No