



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

140

CRM-M-67465-2025

Date of decision: 19.02.2026

HITESH @ HAPPY

.....PETITIONER

Versus

STATE OF HARYANA

..... RESPONDENT

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present :- Mr. Sanjeev Kadian, Advocate
for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana.

SURYA PARTAP SINGH, J.

1. This is third petition for bail filed by the petitioner with regard to a case arising out of FIR No.338 dated 26.04.2021 under Sections 302, 452 and 34 [Section 120-B added later on] of Indian Penal Code, and Section 25 of Arms Act, Police Station Kharkhoda, District Sonipat. The above-mentioned FIR came into being at the instance of Ramesh, hereinafter being referred to as complainant only. It was stated by the complainant that on 26.04.2021 at about 04:35 PM, he came to know that somebody had fired gunshots at the shop of Manoj Kumar. According to complainant when he rushed to the above-mentioned spot, he saw four persons coming out of the shop armed with revolvers, and they sat in a car and fled from the spot. According to



complainant when he went inside the shop he found his son Manoj lying in the pool of blood due to gunshot injury, and that he immediately shifted his son to Government Hospital, Kharkhoda where he was declared brought dead.

2. It is the case of the prosecution that in view of above-mentioned statement formal FIR of this case was lodged and the investigation taken up.

3. Status report and custody certificate have been filed by learned State counsel. The same be taken on record.

4. Heard.

5. It has been contended on behalf of petitioner that the petitioner has been falsely implicated in the present case. According to learned counsel for the petitioner, the petitioner was already in custody in some other case on the date of incident, and that the only allegation against the petitioner is with regard to be part of the conspiracy for the commission of above-mentioned offence. As per learned counsel for the petitioner the only evidence collected by the Investigating Agency with regard to involvement of petitioner in the commission of crime is the disclosure statement of co-accused, which is otherwise inadmissible in evidence.

6. The learned State counsel has controverted the above-mentioned arguments. According to learned State counsel the allegations against the petitioner are with regard to involvement in the commission of a serious nature of offence, and that the petitioner does not have clean antecedents as seven other cases of heinous nature are pending against him.

7. With regard to the facts of the instant case the observation in the case of 'Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence' 2018(3) SCC Online SC 757, are relevant, wherein it



has been held by the Hon'ble Supreme Court of India that the disclosure statement of co-accused is inadmissible against another accused, as the disclosure statement is not a substantive piece of evidence against other accused.

8. Similar principle has been laid down by the Hon'ble Supreme Court of India in the case of 'Preet Kamal Vs. State of Punjab', 2018(4) RCR (Criminal) 938, wherein it has been held that the disclosure statement of an accused can be used only against the person making the same, and not against the co-accused.

9. In 'Tofan Singh Vs. State of Tamil Nadu', 2021(4) SCC 1 also, it has been observed by the Hon'ble Supreme Court of India that confessional statement of accused recorded under Section 67 of NDPS Act cannot be admitted in evidence, as a confession.

10. The record has been perused carefully.

11. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration, for a decision: -

- i) that the petitioner is already in custody for a period more than 03 years and 02 months;
- ii) that there is no denial of the fact that on the day when the incident had taken place the petitioner was in District Jail Mandoli (Delhi);
- iii) that except the disclosure statement of co-accused there is no evidence against the petitioner;
- iv) that there is a question mark with regard to admissibility in evidence of above-mentioned disclosure statement of co-accused, as it was recorded when the co-accused was in police custody and the above-mentioned disclosure statement did not lead to



discovery of any evidence pertaining to present case;

- v) that the trial is taking place at a slow pace as out of 36 witnesses only 08 have been examined and 04 have been given up. Thus, the statements of 24 witnesses and yet to be recorded, which is likely to take a long time;
- vi) that nothing is left to be recovered from the possession of petitioner;
- vii) that the detention of petitioner in judicial lock-up is not likely to serve any useful purpose;
- viii) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses;
- ix) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

12. In the present case, the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Dataram versus State of Uttar Pradesh and another', (2018) 3 SCC 22, 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”.

13. 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”.

14. 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”.

15. Therefore, 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.

16. 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 petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

17. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However the abovesaid concession shall be subject to following conditions:-

- (i) that the petitioner 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 petitioner 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 petitioner shall not leave India without prior permission of the trial Court.

(SURYA PARTAP SINGH)
JUDGE

19.02.2026

<i>vipin</i>	Whether speaking/reasoned	Yes/No
	Whether reportable	Yes/No