



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-67381 of 2025

Date of Decision: 03.02.2026

Aman Kumar

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Vipin Mahajan, Senior Advocate
with Mr. Randeep Singh, Advocate
for the petitioner(s).

Mr. I.P.S.Sabharwal, Deputy Advocate General,
Punjab, for the respondent.

Surya Partap Singh, J.

1. For the commission of offence punishable under Sections 302, 34, 148 and 149 of the Indian Penal Code, 1860 hereinafter being referred to as “IPC” only, the FIR No. 23 dated 15.04.2024 has been lodged in Police Station Purana Shala, District Gurdaspur, Punjab. This is first petition for bail, filed by the petitioner, under Section 483 Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter being referred to as “BNSS” only.

2. Briefly stating the facts emerging from record are that the above mentioned FIR came into being at the instance of ‘Rahul’, hereinafter being referred to as ‘complainant’ only. It was stated by the complainant that on 14.04.2024 he along with his wife, and the family of his elder brother ‘Raju’, and cousin ‘Dharminder’ had attended fair at ‘Pandori Dham’ where a boy

complainant, subsequent thereto a quarrel took place between them and the above said boy attacked 'Dharminder' with the help of knife. According to complainant with an intention to rescue 'Dharminder' when 'Raju' came forward two/three boys, accompanying the above said assailant, joined the attack, and exhorted to kill 'Raju'. The complainant further alleged that thereafter, they inflicted blow on the left side of neck and left shoulder of 'Raju'. As per complainant, 'Raju' was immediately shifted to Government Hospital Gurdaspur, and thereafter, to Abrol Hospital, Gurdaspur but during treatment he succumbed to his injuries.

3. It is the case of the prosecution that in view of above mentioned information, formal FIR of this case was lodged and the investigation taken up. As per prosecution during the course of investigation the petitioner was arrested on 15.04.2024 and since then he is in custody.

4. Heard.

5. It has been contended on behalf of petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime and that he has been falsely implicated in the present case. The learned counsel for the petitioner has contended that during the course of investigation the statement of eye-witness of the occurrence, namely 'Dharminder', was also recorded on 16.04.2024 and in that statement it has been mentioned that fatal blow on the person of 'Raju' was inflicted by 'Abhishek Masih', and not by the petitioner.

6. In addition to above, the learned counsel for the petitioner has also contended that during the course of trial the statement of Dharminder has been recorded as PW 1, and while deposing in the Court the PW1 has

deposed that fatal blow on the person of deceased 'Raju' was inflicted by 'Rahul' and not by the petitioner. According to learned counsel for the petitioner the petitioner has already suffered a prolonged incarceration for being in custody for more than 1½ years and the trial is not likely to be concluded in near future, as out of 17, only five prosecution witnesses have been examined so far.

7. Per contra, the learned State counsel has argued that the allegations in the present case are with regard to commission of murder, and in the statement of eye-witness of the occurrence, recorded by the Investigating Officer on 16.04.2024, the name of petitioner specifically finds mention.

8. The record has been perused carefully.

9. Taking into consideration the above mentioned facts and circumstances of the present case, following factors deserve to be taken into consideration for the decision:-

- i) that the petitioner has already suffered prolonged incarceration for being in custody for a period of more than 1½ years;
- ii) that the statement of eye-witness namely 'Dharminder' has already been recorded as PW1, and in his statement on oath before the Court, he has not attributed any injury to the petitioner. Rather it has been specifically deposed by the PW1 that fatal blow on the person of 'Raju' was inflicted by 'Rahul';
- iii) that the trial is not likely to be concluded in near future,

as out of 17 prosecution witnesses only five have been examined so far;

- iv) that nothing is left to be recovered from the possession of petitioner;
- v) that detention of petitioner in the judicial lock-up is not likely to serve any purpose;
- vi) that there is nothing on record to show that while on bail, the petitioner is likely to tamper with the evidence or influence the witnesses; and
- vii) that there is nothing on record to show that while on bail, the petitioner will not participate/cooperate in trial.

10. With regard to the legal aspect involved in the instant case, it is relevant to mention that the Hon'ble Supreme Court in the case of Dataram v. State of Uttar Pradesh and Another(2018) 3 Supreme Court Cases 22, has 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.”

11. The principles laid down by the Hon’ble the Supreme Court of India in the case of *Satender Kumar Antil v. Central Bureau of Investigation* (2022) 10 Supreme Court Cases 51, are also relevant in this case. In the above mentioned 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.”*

12. Recently, in the case of *Tapas Kumar Palit v. 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 above mentioned 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.”

13. 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.

14. If the cumulative effect of all the above mentioned 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.

15. 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 above mentioned concession shall be subject to following conditions:-

- a) 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;

- b) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in her address to the trial Court, till the conclusion of trial; and
- c) that the petitioner shall not leave India without prior permission of the trial Court.

16. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

17. It is, however, made clear that any observation made here-in-above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(Surya Partap Singh)
Judge

February 03, 2026
“DK”

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