



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

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**CRM-M No.67789 of 2025
Date of decision : 28.1.2026
Date of uploading : 28.1.2026**

Rahul Jaiswal

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Jagpal Singh, Advocate, for the petitioner

Mr. Jaypreet Singh, DAG, Punjab

SUMEET GOEL, J. (ORAL)

1. At the outset, learned counsel for the petitioner has submitted that the petition in hand has been described as 'Third Petition' whereas it is the 'first bail plea' before this Court. This factum is also ratified from the Registry Note dated 3.12.2025.

1.1 Present 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.103 dated 16.10.2021, registered for the offences punishable under Sections 302/364/201/34 of IPC, registered at Police Station Satnampura, Phagwara, District Kapurthala.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-



'Statement of Himansu Sharma son of Anil Prakash Sharma resident of village Urla police station Amla district Bareilly, state Uttar Pradesh, age about 21 years, mobile number-79003- Stated that I am a resident of the above address and have passed 10+2 and we are brothers. My younger brother Pariansu Sharma came to Punjab for work for about a year and currently works at RUFFIT GYM near LPU Phagwara Law Gate and lives there. On 11-10-2021, my brother had a conversation with me at night, but I did not talk to him. On 13-10-2021, during the day, my father received a call from my brother's friend Binder resident of Law gate Maheru that Parianshu is not available and is also coming on a break. We also tried to call Parianshu on our mobiles, if it did not work then I along with my father Anil Prakash Sharma and others have come to Punjab Lovely Professional University Phagwara Law School, so we all searched a lot for Parianshu Sharma but nothing was found about him. While searching, it was found that my brother Parianshu Sharma had a fight with Chandgi Ram @ Dubey, son of Daya Sankat Dubey, resident of village Dusna, police station Mankapura district and resident of Law Gate Maheru, Pradesh Hall. If he is my brother's friend, we can watch the CCTV camera video of RUFFIT GYM dated 12-10-2021 at around 10.48 PM. And my brother was riding a scooter, behind him my brother's other friend Rahul Jaiswal son of Mangal Saal resident of Mudhai Pun Kothia police station, district Gonda, Uttar Pradesh, resident of Law Gate, had gone somewhere because of sitting and after that nothing was known about my brother. After searching for the police, he was not found. I have to say that my brother Patiansu Sharma was kidnapped by Chandgi Ram alias II and Rahul Jaiswal Ukktan to take revenge for the fight and killed my brother. Appropriate legal action should be taken against both of them. I have written a statement and heard it is correct. SD- Himanshu Sharma arma verification/ Amanpreet Kaur SI Chief Officer Police Station Satnampura Phagwara Date:- 16-10-2021.'

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 16.10.2021. Learned counsel has further iterated that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further submitted that the prime prosecution evidence available against the petitioner is in the nature of hearsay. Learned counsel has further submitted that the petitioner has suffered incarceration for more than 4 years and he is a man of clean antecedents.



Thus, regular bail is prayed for.

4. Learned State counsel has filed status report by way of affidavit of Bharat Bhushan, PPS, Deputy Superintendent of Police, Sub-Division Phagwara, District Kapurthala in Court today. The same be kept on record. Copy thereof has been furnished to learned counsel for the petitioner. Raising submissions in tandem with the said status report, learned State counsel has argued that the petitioner was seen in the relevant CCTV footage and it is, thus, clear that the petitioner is guilty of the offence in question. Learned State counsel seeks to place on record the custody certificate dated 27.1.2026, in the Court today, which is taken on record.

5. I have heard counsel for the rival parties and have gone through the available records of the case.

6. The petitioner was arrested on 16.10.2021 whereinafter investigation was carried out and challan has been presented on 14.1.2022. Total 24 prosecution witnesses have been cited, out of which 15 have been examined and 3 were given up. It is not in dispute that relevant prosecution evidence stands examined and thus, there is no chance of the petitioner to influence the prosecution witnesses. It would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in ***Criminal Appeal No.2787 of 2024*** titled as ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and another***, decided on 03.07.2024; relevant whereof reads as under:-

"19 If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to



have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly. howsoever stringent the penal law may be.

21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”

6.1 The rival contentions raised at Bar give rise to debatable issues, which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, *lest* it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.2 As per custody certificate dated 27.1.2026 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 4 years, 3 months and 8 days, & is not shown to be involved in any other FIR(s).

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following



conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.
- (viii) The petitioner shall also furnish a FDR or cash amount of surety to the extent of ₹50,000/- before the concerned trial Court in addition to the conditions imposed by the trial Court.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

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

(SUMEET GOEL)
JUDGE

28.1.2026
Ashwani

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