



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

229

CRM-M No.68223 of 2025 (O&M)

Date of Decision: 04.02.2026

Sourav @ Saurav

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Bharat Julka, Advocate for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

This is Ist petition for bail, filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023, hereinafter being referred to as “BNSS”, with regard to commission of offence punishable under Sections 307, 126(2), 3(5) of Bharatiya Nyaya Sanhita, 2023, hereinafter being referred to as ‘BNS’ [Sections 238 and 310 (2) BNS added later on]. The petitioner is being prosecuted for the commission of above mentioned offence, vide FIR No.100 dated 12.07.2025, Police Station City-2, Abohar, District Fazilka.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being at the instance of ‘Ramesh Kumar’, hereinafter being referred to as ‘complainant’ only. It was stated by the complainant that on 11.07.2025 at about 11.00 P.M when he was going to his home on his bike near Meet Market, Thakar Abadi on Azeemgarh Road 6-7 unknown boys stopped his motorcycle. As per complainant two of the boys were carrying sword (kappa) a sharp edged weapon in their hand and by putting him under threat



they snatched his mobile phone make Vivo and cash worth Rs.500/-. According to complainant at his on level he had inquired about the identity of above named assailants and came to know that their names were 'Sourav', 'Bhim', 'Rahul', 'Kartik' and 'Manga'. It was also stated by the above named complainant that the name of the assailants who were carrying sword (kappa), were 'Kartik' and 'Manga'.

3. 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.

4. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record.

5. Heard.

6. It has been contended by learned counsel for the petitioner that petitioner is already in custody for a period of more than 6 months and 19 days, and that the petitioner has clean antecedents. It has also been contended by learned counsel for the petitioner that there is no specific role attributed to the petitioner for the commission of above mentioned crime, and that nothing incriminating has been recovered from the possession of petitioner.

7. Per contra, the learned State counsel has contended that there are serious allegations against the petitioner for being a member of the group which committed dacoity with the complainant. According to learned State counsel in view of gravity of offence the petitioner is not entitled for the benefit of bail.

8. The record has been perused carefully.

9. A perusal of the record shows that following are the relevant



factors which are required to be taken into consideration for the decision of present petition:-

- i) that the petitioner is already in custody for a period of more than 6 months and 19 days;
- ii) that petitioner has clean antecedents;
- iii) that nothing has been recovered from the possession of the petitioner;
- iv) that investigation in this case is already complete and trial is not likely to be concluded in near future;
- v) that any weapon of offence has not been recovered from the possession of petitioner;
- vi) that nothing is left to be recovered from the possession of petition;
- vii) that no specific role or specific weapon has been attributed to the petitioner;
- viii) that no injury has been caused by the petitioner, rather this is a case of no injury;
- ix) that detention of petitioner in judicial lock-up is not likely to serve any purpose;
- x) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and



- xi) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.

10. In the 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) 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".

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 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”.

12. 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”.

13. 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 an undertrial prisoner, as mandated by Hon’ble Apex court in ‘Balwinder Singh versus State of Punjab and another’ 2024 SCC Online SC 4354.

14. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the concession 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 his furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However, the abovesaid benefit 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 from disclosing 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 trial Court.

(SURYA PARTAP SINGH)
JUDGE

04.02.2026

Manoj Bhutani

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