



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

247

CRM-M-69270-2025 (O&M)

Date of decision : 20.01.2026

Abhishek

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Dinesh Kr. Dakoria, Advocate for the petitioner.

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

SURYA PARTAP SINGH, J. (oral)

For the commission of offence punishable under Sections 148, 149, 323, 452, 506 of IPC [Sections 325 and 302 IPC were added later on], the FIR No.313 dated 24.07.2023, has been lodged in Police Station Gadpuri District Palwal. The petitioner is being prosecuted for the commission of abovementioned offence and he has been arrested. The petitioner is in custody and, therefore, craving for bail.

2. In nutshell, the facts emanating from the record are that the above-mentioned FIR came into being on the complaint of 'Satbir' who stated that on 22.07.2023 when he was present at his shop 'Narender Singh' son of 'Kishan' and 'Kishan' son of 'Gurji' visited his shop and entered into an altercation on the pretext that his electric wires were passing over their wall. As per complainant, he had assured them to remove the same, and thereafter, they left while hurling abuses for him.



3. According to complainant, on next day, i.e. on 23.07.2023, when he along with his brother 'Omkar' and other family members was present at his home, at about 06.30 P.M. 'Kishan', 'Narender', 'Yash', 'Kamal', 'Amit', 'Navin', 'Arvind', 'Birbal', 'Arjun', 'Prithvi', 'Saun Pal', Rohit, 'Pankaj', 'Ranjit', 'Subhash', 'Sobha', 'Ms. Kavita', 'Ms. Mamta' and 'Ms. Prem' armed with iron rods and sharp edged weapons and bricks bats, entered into his house, launched attack upon them, and inflicted multiple injuries. The complainant further alleged that 'Kamal', 'Sohan Pal', 'Arjun', 'Rohit' and 'Pankaj' armed with lathies and wooden handles inflicted multiple injuries on his hand and head, whereas 'Narender', 'Yash', 'Kamal', 'Navin', and 'Abhishek' (petitioner herein) injured his brother 'Omkar' with the help of blunt and sharp edged weapon. It was further alleged by the complainant that 'Narender', 'Kishan', 'Amit' and 'Navin' with the help of blunt weapon had inflicted various injuries on the person of his brother 'Karan' whereas 'Kavita', 'Mamta' and 'Prem' inflicted injuries on the person of 'Mahendri' wife of 'Omkar'. According to complainant his sister-in-law 'Mahendri', his brother, and his son namely 'Laxman' and 'Gaurav' while coming to home were intercepted outside by the assailants, and they, too, suffered injuries inflicted by 'Birbal', 'Arvind', 'Arjun', 'Abhishek' and 'Prithvi'.

4. It is the case of the prosecution that in view of above mentioned complaint formal FIR for the commission of offence under Sections 148, 149, 323, 452 and 506 was lodged and the investigation taken up. As per prosecution, later on, i.e. on 26.07.2023, when there was an information with regard to death of Omkar, Section 302 has been invoked in this case.



5. It is the case of the prosecution that investigation in the abovementioned case has been conducted and usual formalities of investigation with regard to spot inspection, collection of medical, and other evidence and arrest of accused were undertaken.

6. **Notice of motion.**

7. Ms. Deepali Verma, Asst. A.G. Haryana appears on behalf of respondent-State. Hence service of notice upon the State is hereby dispensed with. No formal reply to the petition has been filed by the learned State Counsel. However, she has orally opposed the petition.

8. Heard.

9. It has been contended on behalf of the petitioner that petitioner is innocent, who has been falsely implicated in the present case, and that the petitioner has already suffered long incarceration for being in custody for a period of more than 02 years and 04 months. As per learned counsel for the petitioner, in the FIR injuries responsible for the death of 'Omkar' has not been attributed to the petitioner, and that the petitioner has no criminal antecedents. While claiming that the trial is not likely to be concluded in near future, it has also been contended by learned counsel for the petitioner that the benefit of bail has already been afforded to the co-accused, and that in the given fact-situation, prevailing in the present case, the petitioner is entitled for the benefit of bail.

10. In addition to above, the learned counsel for the petitioner has also argued that in the present case the manipulation and *mala fide* on the part of complainant can be gauzed from the fact that firstly they had named



20 persons in the FIR, which was lodged after a delay of 2 days, and during the course of investigation out of those 20 only 6 were found to be involved in the commission of crime by the police. Thus, remaining 14 were exonerated. It has also been highlighted by learned counsel for the petitioner that the trial being conducted by the learned trial Court makes it abundantly clear that the complainant, who is the star witnesses of the prosecution, is deliberately avoiding the recording of his statement in the Court despite service of summons and bailable warrants.

11. *Per contra*, the learned State Counsel has argued that instant case is a case of very serious nature, wherein a large group of assailants inflicted injuries on the person of several family members of the deceased, and that the injuries caused by the assailants proved to be fatal for one of the injured namely 'Omkar'. As per learned State Counsel, it shall not be conducive for a peaceful atmosphere in the society that benefit of bail is afforded to the petitioner. While claiming that very detail description of the incident has been narrated in the FIR itself, the learned counsel for the respondent-State has sought for dismissal of present petition.

12. The record has been perused carefully.

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

- i) that the petitioner is already in custody for a period of more than 02 years;
- ii) that as per learned counsel for the petitioner, the petitioner has no criminal antecedents;
- iii) that apparently the present case is a case of group fight;



- iv) that there is a big question mark with regard to allegations contained in the complaint as during the course of investigation out of 20 persons, who were named by the complainant, 14 have been found to be innocent;
- v) that on the basis of parity also, the petitioner is entitled for bail as his co-accused, namely Krishan Lal, Kamal Singh and Narender, have already been released on bail;
- vi) that nothing is left to be recovered from the possession of petitioner;
- vii) that the trial of the case is not likely to be concluded in near future;
- viii) that detention of the petitioner in judicial lock-up is not likely to serve any purpose;
- ix) that there is nothing on record to show that if released on bail, the petitioner is likely to tamper with the evidence, or influence the witnesses; and
- x) that there is nothing on record to show that if petitioner is released on bail, he will not participate/co-operate in the trial.

14. 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(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”.

15. 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”.



16. 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”.

17. 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.

18. 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.

19. 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, subject to the 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

20.01.2026

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No