



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

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CRM-M-70752-2025 (O&M)

Date of decision : 27.01.2026

Kulwinder Singh @Kinder

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Ms. Satwant Mehta, Advocate for the petitioner.

Mr. Lakhan, AAG Punjab.

SURYA PARTAP SINGH, J. (oral)

1. For the commission of offence punishable under Sections 302, 120-B, 201 and 34 of Indian Penal Code, the FIR No.78 dated 11.06.2024 has been lodged in Police Station Jhabal, District Tarn Taran. 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 nut-shell, the facts emerging from record are that the FIR of this case came into being at the instance of 'Sukhwinder Singh' son of 'Mukhtiar Singh' hereinafter being referred to as 'complainant' only. It was stated by the complainant that on 09.06.2024, his brother 'Lakwhinder Singh' received a call on his mobile phone, and thereafter, he left home on the pretext of some urgent work, on his motorcycle. According to complainant, when he did not return, his son 'Arshdeep' called him on



mobile phone, but it was found to be switched-off. As per complainant, thereafter, his brother 'Lakhwinder Singh' was searched extensively and an application before the police was also moved. According to complainant, on 11.06.2024 he came to know about the presence of a dead body on the bank of canal, and when he went there he found that the abovementioned dead body was of his brother 'Lakhwinder Singh'.

3. It is the case of the prosecution that acting upon the abovementioned complaint, the formal FIR, in this case, was lodged and the investigation taken up. According to the prosecution, during the course of investigation accused Nirmaljit Singh @Jarman has been arrested and on interrogation, he suffered a disclosure statement, wherein he disclosed that on 09.06.2024 he had received a call from his friend Kulwinder Singh @Kinder (petitioner herein) informing him that Lakhwinder Singh (deceased) was coming to his house along with one lady, namely Babbu and after some time, both of them arrived at his house.

4. The prosecution further alleged that as per disclosure statement of abovementioned accused, thereafter an altercation took place between Lakhwinder Singh and Babbu, and Babbu hit the Lakhwinder Singh and he fell down on the floor. As per disclosure statement of the accused Nirmaljit Singh @Jarman, he called his friend Kulwinder Singh @Kinder, who came there along with one unknown person on Swift car and on seeing the condition of Lakhwinder Singh, they inflicted further injuries upon his person, which resulted into his death.

5. **Notice of motion.**



6. Mr. Lakhan, AAG Punjab appears on behalf of respondent-State. Hence service of notice upon the State is hereby dispensed with. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record. However, no formal reply has been filed by the State and the learned State counsel has opted to orally oppose the present petition.

7. Heard.

8. It has been contented on behalf of the 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, merely, on the basis of disclosure statement of co-accused, Nirmaljit Singh @Jarman. According to learned counsel for the petitioner, the abovementioned disclosure statement has no legal sanctity as the same was recorded when the maker of it was in police custody. As per learned counsel for the petitioner, the description of the events, recorded by the investigating agency, nowhere attributes any role to the petitioner.

9. In addition to above, the learned counsel for the petitioner has also argued that the petitioner has already suffered a lot of incarceration for being in custody for a period of more than 08 months. The learned counsel for the petitioner has further argued that on the ground of parity, the petitioner is entitled for the benefit of bail, as his co-accused, namely Nirmaljit Singh @Jarmal, has already been afforded the benefit of bail by this Court, by virtue of order dated 26.11.2025 in CRM-M-22539-2025.



10. *Per contra*, the learned State Counsel has argued that the allegations against the petitioner are for an offence which is serious in nature, and that the Investigating Agency has collected sufficient evidence to show that the petitioner was involved in the incident of attack upon the deceased Lakhwinder Singh, and that in execution of common conspiracy of the group, of which petitioner was a party, fatal injuries were inflicted on the person of Lakhwinder Singh. According to learned State Counsel, if petitioner is released on bail, he may influence the witnesses, or tamper with the evidence.

11. The record has been perused carefully.

12. In the case of ‘Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence’ 2018(8) SCC 271, 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.

13. If the facts and circumstances of the present case are analyzed in the light of above-mentioned principles of law, it transpires that:-

- i) that the petitioner is already in custody for a period of approximately 09 months;
- ii) that nothing is left to be recovered from the possession of petitioner;
- iii) that the trial is not likely to be concluded in near future;
- iv) that detention of the petitioner in judicial lockup is not likely to serve any purpose;



- v) that with regard to identity of the petitioner, as one of the assailants, except the disclosure statement of co-accused, there is no other connecting evidence;
- vi) that the co-accused of the petitioner, namely Nirmaljit Singh @Jarmal, has already been afforded the benefit of bail by this Court, by virtue of order dated 26.11.2025 in CRM-M-22539-2025;
- vii) 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
- viii) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate 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 also 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. However the abovementioned 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

27.01.2026

Gaurav Thakur

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No