



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

221-II

CRM-M-70705-2025 (O&M)
Date of decision : 30.01.2026

Gurnam Singh

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

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

Mr. Rohit Bansal, Sr. DAG Punjab.

SURYA PARTAP SINGH, J.

1. For the commission of offence punishable under Sections 302, 342, 148, 149 of the Indian Penal Code (Section 304 of IPC added later on and Section 302 of IPC deleted) and Section 67 of the Information Technology Act, 2000, the FIR No.198 dated 25.10.2023 has been lodged in Police Station Bagha Purana, District Moga. 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 on the statement of 'Seeto Kaur', who stated that on 15.10.2023, she along with her husband, had gone to Rajasthan for some work, where she came to know that her son, 'Karam Singh', had died. According to the complainant, upon returning to her village, she was



informed that her son had died due to injuries. The complainant further stated that, on the advice of respectable members of the village & society, she initially agreed not to lodge any complaint, but later a video went viral, through which she came to know that on the pretext of theft in cash box of village Gurdwara, her son had been taken there, where his hands and legs were tied, and he was brutally thrashed. The complainant alleged that, due to abovesaid injuries, her son passed away.

3. It is the case of the prosecution that in view of abovementioned complaint, formal FIR in this case was lodged and the investigation taken up. As per prosecution, during the course of investigation, Section 304 of IPC was added by dropping Section 302 of IPC.

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

5. Heard.

6. The record has been perused carefully.

7. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration, for the decision in the present petition: -

- i) that the petitioner has already suffered a long incarceration for being in custody for a period of more than one year and 02 months;
- ii) that the petitioner has no criminal antecedents;



- iii) that initially, there was no allegation with regard to commission of murder of complainant's son, but later on as afterthought, allegations against the petitioner have been levelled;
- iv) that during the course of investigation, allegations with regard to commission of offence under Section 302 of IPC have not been found to be true, and the case has been converted into a case under Section 304 of IPC;
- v) that on parity also the petitioner is entitled to bail, as similarly placed co-accused, namely Jagsir Singh and Avtar Singh, have already been accorded the benefit of bail by this Court;
- vi) nothing is left to be recovered from the possession of petitioner;
- vii) the trial is not likely to be concluded in near future;
- viii) that detention of petitioner in judicial lockup is not likely to serve any purpose;
- ix) 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
- x) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.

8. 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”.

9. 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”.

10. 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”.

11. 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.

12. 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.



13. 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

30.01.2026
Gaurav Thakur

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