



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

CRM-M-72988-2025

Date of decision: 05.02.2026

**SUMESH ALIAS SUKHA****....Petitioner****Versus****STATE OF HARYANA****....Respondent****CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL**

Present:- Mr. Ajay Poonia, Advocate for the petitioner.

Ms. Shaveta Sanghi, DAG Haryana.

.....

**RUPINDERJIT CHAHAL, J. (ORAL)**

1. Prayer in the instant petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is for grant of regular bail to the petitioner in case FIR No.408 dated 29.08.2024 registered under Sections 109 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Section 25 of the Arms Act at Police Station City Jind, District Jind.

2. Brief facts of the present case as per the prosecution are that on 28.08.2024, two unknown persons with muffled faces came on a silver colour motorcycle and fired a gunshot at the shop of the complainant- Hunny with an intention to kill him. However, the bullet hit the glass of the shop and he narrowly escaped. Hence, the present FIR.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He argued that the petitioner was not named in the FIR and initially, nor any injury has been



was nominated as an accused on the basis of disclosure statement made by co-accused Akash @ Candy. Apart from the disclosure statement, there is no other evidence to connect the petitioner with the offence in question and it is a trite law that disclosure statement of co-accused during his custodial interrogation is not admissible. No recovery is to be effected from him. The petitioner is in custody since 29.08.2024. The investigation in the case is complete; charges have been framed; challan also stands presented; out of 15 prosecution witnesses only 05 have been examined. He submits that the material witnesses including the complainant have been examined and they have not identified the petitioner. To lend force to his arguments he has relied upon Annexure P-2. He further submits that trial will take a long time to conclude and no useful purpose would be served by keeping him behind bars. Therefore, it is urged that the petition deserves to be allowed.

4. Notice of motion.

5. Learned State counsel, who has appeared on advance notice of the petition, has filed the custody certificate of the petitioner, which is taken on record. She has vehemently opposed the prayer for grant of bail by submitting that the offence committed by the petitioner is serious in nature that the offence committed by the petitioner is serious in nature as both the accused hatched a conspiracy with an intention to kill the petitioner. He has further submitted that the petitioner is involved in multiple other cases meaning thereby he is a habitual offender. However, she could not controvert the fact that the material witnesses have turned hostile.



6. Having heard learned counsel for the parties at length and after perusing the record of the case, it is evident that the petitioner is in custody for the last more than 01 year, 05 months; investigation is complete; challan stands presented; out of 15 prosecution witnesses only 05 have been examined; material witnesses have not identified the petitioner and have been declared hostile; and the fact that trial may take a long time to conclude, no useful purpose would be served by detaining him in further custody. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future would be violative of his rights under Article 21 of the Constitution of India.

10. Reliance is placed upon a judgment in the case of ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, wherein Hon'ble Apex Court has held that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of her right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle "*bail is a rule*" and "*jail is an exception*".

11. As regards the submission of learned State counsel that petitioner is involved in other/one more criminal case(s), reference is placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382*** in which, it is held that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is



involved in other/another case(s). The relevant portion of the said judgment is reproduced herein-below:-

*"As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."*

12. In view of the above, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned. It is clarified that nothing stated herein shall be construed as an expression of opinion on the merits of the case.

05.02.2026  
puneet

(RUPINDERJIT CHAHAL)  
JUDGE

- |     |                            |        |
|-----|----------------------------|--------|
| i)  | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable?        | Yes/No |