



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-16071 of 2025

**Reserved On: 25.08.2025
Pronounced On: 27.08.2025**

Pankaj alias Tefoe

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr.Sahil Choudhary, Advocate
for the petitioner(s).

Mr.Parveen Kumar Aggarwal, Additional Advocate General,
Punjab, for the respondent.

Surya Partap Singh, J.

1. For the commission of offence punishable under Section 302 read with Section 34 of Indian Penal Code, 1860, an FIR has been lodged in Police Station Model Town, Panipat and the petitioner has been arrested in the above mentioned case as an accused. Since the petitioner is in custody, he has filed the present petition for the benefit of bail.

2. As per facts projected by the prosecution, the above mentioned FIR bearing No. 307 dated 13.08.2021 into being in view of a written complaint submitted by Indro Devi, hereinafter referred to as "complainant". In the above mentioned complaint, it was stated by the complainant that her elder son, namely Sanjay is a drug addict and that for the purchase of drugs, he was in the habit of selling household articles. According to complainant, her husband used to object to his above mentioned acts and this interference

of her husband was not liked by Sanjay. It was further stated by the complainant that on 10.08.2021, at about 2:00 A.M., Sanjay entered their house, attacked her husband on his head with iron rod and escaped from the spot.

3. On the basis of above mentioned complaint, a former FIR was lodged, and the investigation taken up. During the course of investigation, it was told to the police officer by the witnesses, whose statements were recorded under Section 161 of the Code of Criminal Procedure, 1973, that at the time of commission of offence, petitioner-Pankaj was holding the deceased and Sanjay was hitting him. Both of them are in custody in the present case.

4. Heard.

5. It has been contended by learned counsel for the petitioner that the petitioner was innocent and the injury, which was responsible for the death of victim, has not been attributed to him. According to learned counsel for the petitioner, the original version projected by the complainant shows that the offence was committed by only one accused, namely Sanjay, but later on the Investigating Officer, on the basis of some evidence, which is not legally admissible, has roped in the petitioner as co-accused.

6. It has also been argued by learned counsel for the petitioner that the petitioner has already suffered sufficient incarceration and that the trial is not likely to be concluded in near future. The learned counsel for the petitioner has also highlighted the fact that only official witnesses have been left to be examined and the eye witnesses have not supported the prosecution case with regard to involvement of petitioner in the commission of offence.

7. Per contra, the learned State counsel has argued that active role was played by the petitioner at the time of commission of offence and that the trial is likely to be concluded in near future. According to learned State counsel, in view of the above mentioned facts and the gravity of offence involved in the present case, the petitioner is not entitled for the benefit of bail.

8. The record has been perused carefully.

9. A perusal of record shows that the present petition is the second bail petition of the petitioner. In fact, the first bail petition was not decided on merits, as it was withdrawn.

10. In the present case, it is apparent on record that out of 20, 15 prosecution witnesses have already been examined and all the witnesses left to be examined are the official witnesses. The record also reveals that the complainant/eye witness has not supported the prosecution case with regard to involvement of petitioner in the commission of offence. However, at the same time this fact cannot be ignored that another eye witness of the incident, i.e. Sandeep, son of deceased, has supported the prosecution case with regard to the fact that the petitioner was involved in the commission of offence. But much credibility cannot be attached to the testimony of above named witness as in his cross-examination he has crumbled and stated that the petitioner had never come to their home prior to the incident, and that he was not known to him. In addition to above, the above named witness has also deposed that at the time of incident, the petitioner was muffled faced and therefore, he could not see his face.

11. If the above mentioned part of cross-examination of PW.4-

Sandeep is taken into consideration, it transpires that with regard to identity of the petitioner, as one of the assailants, his In the above mentioned given fact situation testimony is rendered bit doubtful. following are the factors which need consideration for the decision of the present petition:-

- i) that the petitioner has already suffered sufficient incarceration for being in custody for a period of more than four years;
- ii) that private witnesses in this case have already been examined and the remaining witnesses, yet to be examined, are the official witnesses only. As such, there is no chance of influencing of witnesses by the petitioner;
- iii) that the complainant and eye-witness of the occurrence have not supported the prosecution case;
- iv) that the testimony of another eye-witness, who although supported the prosecution case in his examination-in-chief, is not creditworthy in view of discussion in the foregoing paragraphs;
- v) that as per custody certificate, the petitioner has no criminal history;
- vi) that nothing is left to be recovered from the possession of accused/petitioner;
- vii) that trial is not likely to be concluded in the near future;
and
- viii) that detention of the petitioner behind the bars is not

likely to serve any purpose.

12. Taking into consideration the cumulative effect of all the aforesaid factors, the present petition deserves to be allowed. Hence, the same is hereby allowed and the petitioner is admitted to bail subject to his furnishing bail bonds to the satisfaction of the learned trial Court. In case, the learned trial Court concerned is not available on the date of furnishing bail bonds, the learned Sessions Judge shall be at liberty to assign the above case, for the above-mentioned purpose, to any other Court.

13. It is, however, made clear that any observation made here-in-above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(Surya Partap Singh)
Judge

August 27, 2025

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No