



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

207

CRM-M-13007-2025

Date of Decision: 13.08.2025

Jagjwan Singh @ Shami

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Ashish Grover, Advocate
For the petitioner.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J.

1. This is the third petition for grant of bail under Section 439 Cr.P.C. (Section 483 BNSS, 2023) filed by petitioner, a co-accused in case bearing FIR No.103 dated 24.07.2022 registered against him and others, u/s 307, 324, 323, 109, 148, 149 IPC (Sections 326 & 325 IPC added later on vide order dated 11.07.2025), registered at Police Station Nathana, District Bathinda.

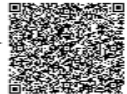
2. Relevant facts as emerging from documents on record, we notice herein below:

Gulzar Singh, son of Sh. Arjan Singh set the criminal law in motion by filing a complaint pointing therein that at about 07.30 AM on 24.07.2022, his son Balwinder Singh @Buda aged about 40 years had gone to the house of one Gurpreet Singh @ Labhi, son of Simar Singh for delivering a message to collect milk from their house. On their way back, Karamjit Singh @ Bassi armed with Kirpan, his brother Jasbir Singh @ Chitti armed with Kirpan, Gurinder @ Joyti armed with an iron rod,



Jagjivan @ Shami (petitioner), son of Bholu armed with a Kirpan, Amandeep Singh armed with danda, Binder Singh armed with khapra, his son Jotu @ Anmol armed with iron rod and several other persons (whose names were mentioned in the complaint by complainant) came up to them. Karamjit @ Bassi exhorted others to teach Balwinder Singh @ Buda lesson of his lifetime, when Jasvir Singh @ Chitti gave a Kirpan blow on the head of Buda, **Karamjit and Jagjivan @ Shami (present petitioner) also joined in and hit Buda with a kirpan on his head**, Joyti gave an iron rod blow on the head of Buda, who fell down. The assailants did not stop even then and continued assaulting Buda. Karamjit @ Bassi and Shammi also gave kirpan blows on the right leg of Buda, Baljit Singh hit Buda on his left leg with an iron rod. Jagjit @ Bohri and Gurjit Singh hit Buda with an iron rod. Veero Kaur and Kaddu Kaur, who were accompanying the assailants, shouted to kill Buda. Immediately, he (complainant) raised an alarm. People started gathering, on seeing whom the assailants spread away. Complainant also pointed out the reason for this assault and stated in the complaint that about a month ago, Karamjit Singh @ Bassi, Jasvir Singh @ Chitti, **Jagjivan @ Shammi**, Birbal @ Kalu had assaulted one Tar Singh by forcibly entering in his house. At that point in time, Buda Singh supported Tar Singh. Miscreants were nursing a grudge against his son on this count.

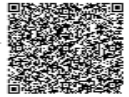
With this backdrop, request was made by complainant to catch hold of the assailants, who had unleashed an attack on his son and had seriously injured him. On the basis of the said complaint and Medico Legal Report a formal case vide FIR No.103 dated 24.07.2022 was registered against present petitioner and 12 others for commission of offences punishable under Sections 307, 326, 325, 324, 323, 109, 148, 148 IPC.



Admittedly, **the present petitioner was arrested on 09.08.2022 and has been in custody since then**. The earlier two bail applications filed before this Court, were withdrawn by him on 08.12.2023 and 10.05.2024.

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. He was arrayed as an accused, on account of prior enmity with the petitioner. Challan in the present case was filed on 20.10.2022. Out of 23 prosecution witnesses, only 03 are private witnesses, the remaining are all official witnesses. Further, till date only examination-in-chief of complainant has been recorded, who is deliberately not appearing for his cross-examination. To procure his presence, learned trial Court has issuedailable warrants.

Continuing further, learned counsel submits that after presentation of supplementary challan against accused Jagjit Singh, Surjit Singh and Gagandeep Singh, the case is being adjourned for consideration on charge and thus, the trial has not progressed further. The delay is not attributable to present petitioner, who is alleged to have given two blows with dasti kirpan to injured Balwinder Singh @ Buda Singh on his head and right leg below knee, one of which (head injury) was declared dangerous to life. Learned counsel also placed on record a **copy of the order dated 24.11.2023 passed by learned Additional Sessions Judge, Bathinda** vide which co-accused Jasvir Singh @ Chitti, who was also alleged to have given a kirpan blow on the head and right leg of injured Buda (Head injury was declared dangerous to life), was extended the concession of bail. On grounds of parity, it was prayed that lenient view be taken in favour of present petitioner who has been in custody for last 03 years (date of arrest



09.08.2022). The crux of submission raised by learned counsel for the petitioner is that since completion of trial is likely to take some time, further incarceration of petitioner would not serve any useful purpose. As also that if extended the concession of bail, petitioner undertakes to abide by all the conditions so imposed by the Court.

4. *Per contra*, Mr. Gautam Thappar, Sr. DAG, Punjab, has placed on record Status Report and has opposed the bail application on the ground that petitioner who at the relevant time and day was armed with a kirpan and had given two blows with the same to Balwinder Singh @ Buda (on his head and right leg below knee), one of which was declared dangerous, does not deserve the concession of bail, at this stage, for complainant, injured and another related witness have not been examined. If released on bail, there is every likelihood of petitioner over-awing all the three witnesses.

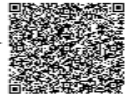
Continuing further, learned State counsel submits that even the past antecedents of petitioner are far from satisfactory; he being involved in three other cases (FIR No.74 dated 16.04.2019, u/s 61 Excise Act, FIR No.134 dated 02.07.2019 u/s 323,354 read with 34 IPC, FIR No.68 dated 11.05.2022 u/s 324, 452, 506, 148, 149 IPC). It was prayed that in the light of the role attributed to him in the present incident, considering his past antecedents, the petitioner is extended the concession of bail, he may flee from the process of justice, by not appearing in the Court. Based on these submissions, dismissal of the petition was prayed for.

5. It is settled principle that grant of Bail is the rule and jail is the exception. In *Gurbaksh Singh Sibbia V. State of Punjab (1980) 2 SCC 5*, Hon'ble Supreme Court held as under:-





"27. It is not necessary to refer to decisions which deal with the right to ordinary bail because that right does not furnish an exact parallel to the right to anticipatory bail. It is, however, interesting that as long back as in 1924 it was held by the High Court of Calcutta in Nagendra v. King-Emperor [AIR 1924 Cal 476, 479, 480: 25 Cri LJ 732] that the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment. In two other cases which, significantly, are the 'Meerut Conspiracy cases' observations are to be found regarding the right to bail which deserve a special mention. In K.N. Joglekar v. Emperor [AIR 1931 All 504: 33 Cri LJ 94] it was observed, while dealing with Section 498 which corresponds to the present Section 439 of the Code, that it conferred upon the Sessions Judge or the High Court wide powers to grant bail which were not handicapped by the restrictions in the preceding Section 497 which corresponds to the present Section 437. It was observed by the court that there was no hard and fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and that the only principle which was established was that the discretion should be exercised judiciously. In Emperor v. Hutchinson [AIR 1931 All 356, 358: 32 Cri LJ 1271] it was said that it was very unwise to make an attempt to lay down any particular rules which will bind the High Court, having regard to the fact that the legislature itself left the discretion of the court unfettered. According to the High Court, the variety of cases that may arise from time to time cannot be safely classified and it is dangerous to make an attempt to classify the cases and to say that in particular classes a bail may be granted but not in other classes. It was observed that the principle to be deduced from the various sections in the Criminal Procedure Code was that grant of bail is the rule and refusal is the exception. An accused



person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. As a presumably innocent person he is therefore entitled to freedom and every opportunity to look after his own case. A presumably innocent person must have his freedom to enable him to establish his innocence.

28. *Coming nearer home, it was observed by Krishna Iyer, J., in Gudikanti Narasimhulu v. Public Prosecutor [(1978) 1 SCC 240: 1978 SCC (Cri) 115] that (SCC p. 242, para 1)*

"... the issue of bail is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitized judicial process... After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of procedure established by law. The last four words of Article 21 are the life of that human right."

29. *In Gurcharan Singh v. State (Delhi Administration) [(1978) 1 SCC 118: 1978 SCC (Cri) 41] it was observed by Goswami, J., who spoke for the court, that: (SCC p. 129, para 29)*

"29 "There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail."

30. *In AMERICAN JURISPRUDENCE (2d, Volume 8. p.806, para 39), it is stated:*

"Where the granting of bail lies within the discretion of the court, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to



secure his appearance and submission to the jurisdiction and the judgment of the court, the primary inquiry is whether a recognizance or bond would effect that end."

It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail."

In the case of **Rup Bahadur Magar @ Sanki @Rabin Vs. State of West Bengal**, Criminal Appeal No.4144 of 2024 decided on 04.10.2024. in a case under Sections 394, 395, 397, 307 read with 120-B of IPC, Hon'ble Supreme Court granted bail to the accused considering long incarceration undergone by him of 2 years and 9 months.

In the case of **Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Anr, (2024) 9 SCC 813**, the Supreme Court while granting bail to accused, who had been in custody for 04 years, in paragraph Nos 16 and 17 held as under :-

“16 Criminals are not born but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption This humanist Fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations

17. *If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime."*



Recently, a Co-ordinate Bench of this Court in *Neelkamal Singh Alias Billa Vs. State of Punjab* passed in CRM-M-39765-2024 has held that although an accused may have past criminal antecedents but nonetheless if the incarceration period is long, he is entitled for the concession of bail.

"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 is the mandate of the Apex court in "Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna", (1980) 1 SCC 98. Besides this, reference can be drawn upon that pre-conviction period of the under-trials should be as short as possible keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant. As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as "Baljinder Singh alias Rock vs. State of Punjab" decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of concession of bail."



6. In view of the settled position of law as referred above, the fact that after withdrawal of the second bail application from this Court on 10.05.2024, the trial has not proceeded further and none of the prosecution witnesses have examined, as also taking note of the submissions advanced by learned counsel for the petitioner but without expressing any opinion on the merits of the case, lenient view is taken in favour of the petitioner, who is allowed the concession of bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate Chief Judicial Magistrate concerned. The petitioner shall also abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.



(ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

7. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

8. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AARADHNA SAWHNEY)
JUDGE

13.08.2025

Nisha Yadav

Whether Speaking/reasoned?

Whether Reportable?

Yes/No

Yes/No