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

**CRM-M No.25321 of 2025
Date of Decision: 27.05.2025**

Krishan @ Gatha

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Vikas Gulia, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

1. Present second petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.66, dated 22.03.2018, under Sections 302, 307, 34 IPC and Section 25 of Arms Act, 1959 (Sections 120-B, 379-B, 216, 109 of IPC added later on), registered at Police Station Barauda, District Sonipat (Annexure P-1).

2. Succinctly the facts of the case are that on 22.03.2018, the police party was on duty in Girls Senior School, Madina. At about 02:00 P.M., he heard the sound of bullet firing. On hearing, ASI Subhash Chander along with SPO Surender went to the playground of the School and saw that one boy was lying dead with bullet injuries and another boy was shot in his stomach. Thereafter, he saw 3-4 boys running out of the School and boarding in a white colour car. He identified the number of Car as HR 99 ACG(TP) 4076. On enquiry, he found the name of the deceased as Rajesh son of Jai Singh and the injured person as Sawan son



of Rajender. Relatives of Sawan took him to the hospital for treatment. The boys present in the school disclosed about the assailants to be Sita and Pawan @ Pona. It was informed that due to the old enmity, they had fired upon Rajesh and killed him and with intention to kill Sawan, they fired upon him as well. On registration of the FIR, the investigation commenced. During the investigation, name of the petitioner surfaced and thus he was arrayed as an accused in the present case. The petitioner was arrested on 17.12.2018. On conclusion of the investigation, challan was presented and on framing of the charges, trial commenced. The petitioner approached the Court of learned Additional Sessions Judge, Sonapat praying for the grant of bail. However, after hearing counsel for both the sides, the learned Additional Sessions Judge, Sonapat declined the same vide order dated 21.04.2025. Being aggrieved, the petitioner earlier approached this Court by way of filing CRM-M No.13507 of 2023 praying for the grant of bail, however the same dismissed as withdrawn vide order dated 29.09.2023. Hence being aggrieved, the petitioner is before this Court by way of filing the present second petition praying for the grant of bail.

3. Learned counsel for the petitioner has vehemently contended that the case of the petitioner is at par with that of the co-accused, namely, **Neetu @ Sita and Pawan @ Pona**, who have already been granted bail by this Court vide order dated 03.04.2025 passed in CRM-M No.42284 of 2024 and CRM-M No.10076 of 2025. He has submitted that though the petitioner has the criminal antecedents as he is involved in various other cases, however he is on bail in all those cases. He has submitted that in the present case, eye-witnesses have been examined and they have not supported the case of prosecution. He has submitted that name of the



petitioner was not even named in the FIR, however later on he has been implicated in the present case on the basis of disclosure statement of co-accused. He has submitted that during the investigation, the recovery of weapon has been allegedly shown to be recovered from the petitioner but as per the FSL report, the fired bullets matched with the weapon recovered from co-accused, Pawan @ Pona and Ravinder @ Golu. He has thus submitted that case of the petitioner is on better footing than that of the co-accused, who have already been granted bail by this Court. He has submitted that speedy trial is the fundamental right of every accused. He has submitted that the petitioner is behind bars since the date of his arrest, i.e. 17.12.2018 but the trial is not yet concluded. He has submitted that in the facts and circumstances, the petitioner deserves to be granted bail.

4. Reply dated 26.05.2025 by way of an affidavit of Rishi Kant, HPS, Assistant Commissioner of Police, Mohana Sonipat on behalf of the respondent-State has been filed by learned State counsel today in the Court and the same is taken on record. Copy thereof has been supplied to learned counsel for the petitioner.

5. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He, on instructions from SI Samunder Singh, has submitted that the petitioner is the habitual offender. It is submitted that the occurrence in the present case has taken place in broad daylight where the petitioner had fired upon the deceased-Rajesh and injured the friend of the deceaseds Sawan. He has submitted that the identification of the petitioner was also established. It is submitted that out of total 54 prosecution witnesses, 21 witnesses have been examined. He has placed on record the custody certificate of the petitioner. He thus, submits that the petitioner does not deserve the



concession of regular bail. He has further endorsed the fact that co-accused of the petitioner have already been granted bail by this Court vide order dated 03.04.2025.

6. After hearing counsel for the parties and perusing the record, it is inferred that the petitioner is behind bars since the date of his arrest, i.e. 17.12.2018. The material witnesses have already been examined. The injured witness-Sawan who has been examined, has not supported the case of the prosecution. Custody certificates of the petitioner would reflect that the petitioner has suffered incarceration of 06 years, 05 months and 23 days as on 26.05.2025. It further reflects that the petitioner is involved in various other cases, however, in some of the cases, he has been acquitted. Needless to say that custody of the petitioner is more than 06 years but till date, prosecution has not been able to examine even half of the witnesses cited in the challan. Co-accused of the petitioner have already been granted bail by this Court vide order dated 03.04.2025. Simply because the petitioner is involved in other cases cannot be a ground to justify such a long incarceration as every accused has a fundamental right of speedy trial.

7. The Hon'ble Supreme Court in *Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695* has held as under:

“Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of



speedy justice is a threat to public confidence in the administration of justice.”

8. This Court would refrain itself from commenting anything on the merits of the case. The petitioner is in custody since the date of his arrest, i.e. 17.12.2018 and co-accused, namely, *Neetu @ Sita and Pawan @ Pona*, whose case is stated to be at par with the petitioner, have already been granted bail by this Court vide order dated 03.04.2025. The petitioner has suffered incarceration of 06 years, 05 months and 23 days.

9. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail on the basis of parity as the co-accused, namely, *Neetu @ Sita and Pawan @ Pona* have already been admitted to bail by this Court as stated above.

10. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

11. The learned Court concerned is directed to ensure that two local sureties are furnished by the petitioner at the time of submission of bail/surety bonds. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

27.05.2025

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**(RAJESH BHARDWAJ)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No