



CRM-M-6009-2025 (O&M)

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

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CRM-M-6009-2025 (O&M)**Reserved on : 15.09.2025****Pronounced on : 17.09.2025**

Dharampal

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by: Mr. P.S. Sullar, Advocate for the petitioner.

Ms. Deepali Verma, Asst. A.G. Haryana.

Mr. K.S. Sehra, Advocate for the complainant.

SURYA PARTAP SINGH, J.

1. This is the second petition filed by the petitioner, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for regular bail, in a case arising out of FIR No.291 dated 15.09.2023 under Sections 148, 149, 302, 307, 201 and 120B of Indian Penal Code and Section 25 of Arms Act, Police Station Sadar, Gohana District Sonipat. Earlier, the first petition seeking for bail was dismissed as withdrawn, vide order dated 30.07.2024.

2. Briefly stating the facts emerging from record are that the FIR pertaining to this case came into being on the basis of a written complaint submitted by Manjeet S/o Balwan Singh. In the abovementioned complaint, it was stated by the complainant that on 15.09.2023 at about 10:00 am, he along with his cousin Ramesh and grandfather Raj Singh was going to

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Sonipat on two different motorcycles. According to complainant, on one motorcycle, he was travelling alone, and on another one, Ramesh, as driver, and his grandfather Raj Singh, as pillion rider. As per complainant, at about 10:15 am, when they reached the roundabout, few persons, including Deepak, Monu, Amit and Dharampal (petitioner herein), came on two motorcycles and in two cars, and they launched an attack upon Ramesh and Raj Singh and killed them by using firearms. According to complainant, in the abovementioned incident, Gurcharan, too, has also suffered injuries in his back, and that this act was committed at the instance of Ranbir S/o Chander. It is the case of the prosecution that in view of abovementioned information, formal FIR of this case was lodged, investigation taken up and the accused arrested.

3. Heard.

4. It has been contended on behalf of petitioner that petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that the petitioner has already suffered a lot of incarceration for being in custody for a period of almost 2 years. It has also been contended by learned counsel for the petitioner that in the present case, the trial is progressing at a snail's pace, as out of 78 prosecution, only 9 prosecution witnesses have been examined, so far.

5. In addition to above, it has also been pointed out by learned counsel for the petitioner that the injured, who survived the attack, namely Gurcharan Singh, has already been examined and he has not supported the prosecution case. According to learned counsel for the petitioner, in addition

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to abovementioned star witness, 3 other witnesses, too, who were allegedly present on the spot at the time of occurrence, have already been examined and they, too, have failed to lend any support to the prosecution case.

6. It has also been argued by learned counsel for the petitioner that a smog screen has been created by the prosecution by stating that incident was recorded in a CCTV camera, whereas, the abovementioned CCTV footage nowhere confirms the presence of petitioner on the spot. According to learned counsel for the petitioner, the abovementioned claim of the prosecution is altogether false. While arguing that wrong facts have been projected by the prosecution, and that the petitioner has clean antecedents, having no criminal history, and that trial is not likely to be concluded in near future, the concession of bail for the petitioner has been claimed.

7. *Per contra*, learned State Counsel, being assisted by learned counsel for the complainant, has argued that in the present case, there is ample evidence to prove the involvement of petitioner in the commission of crime. According to learned State Counsel, the complainant in the present case has duly supported the prosecution case with regard to involvement of petitioner in the commission of crime.

8. In addition to above, it has also been argued by learned State Counsel that in the present case, there are very serious allegations of double murder, and that the CCTV footage, coupled with the eye-witness account, is sufficient to prove the involvement of petitioner in the commission of crime. It has been further argued by learned State Counsel that this is the second petition for bail, and that there is no significant change in

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circumstances from the date of dismissal of former bail petition. In view of above, it has been contended that the present petition is devoid of any merit and deserves dismissal.

9. The record has been perused carefully.

10. At the very outset, it is pertinent to mention here that the first petition for bail, filed by the petitioner, was dismissed as withdrawn by this Court vide order dated 30.07.2024, and the perusal of contents of abovementioned order shows that the abovementioned order was not on merits.

11. Be that as it may, it is also relevant to mention here that the former petition for bail was dismissed when the charge against the petitioner was yet to be framed. However, by now, when the second petition for bail has been filed, not only the charge against the petitioner has been framed, but also majority of material witnesses have been examined. In such circumstances, in my considered opinion, this argument of learned State Counsel is not tenable that there is no change of circumstances from the date of dismissal of former bail petition.

12. As far as the instant case is concerned, a perusal of record shows:

- a) that the petitioner is already in custody for a period of 1 year, 11 months and 19 days;
- b) that there is no criminal history of the petitioner;



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- c) that the contents of FIR itself shows that there is no specific attribution of any weapon or injury on the person of victims, by the petitioner;
- d) that nothing is left to be recovered from the possession of petitioner;
- e) that trial is not likely to be concluded in near future; and
- f) that detention of the petitioner in judicial lockup is not likely to serve any purpose.

13. As per reply submitted by the State, the CCTV footage has been examined, and in the abovementioned CCTV footage, the complainant has identified Ravi Tiwari, Rakesh, Sanjay, and Sagar as assailants travelling on motorcycle. However, there is no mention in the reply that the petitioner, too, had been identified by the complainant in the abovementioned CCTV footage.

14. With regard to abovementioned factual situation, it is relevant to mention here that it is settled principle of law that “Bail is the Rule and Jail is an Exception”. This basic principle of criminal jurisprudence was laid down by the Hon’ble Supreme Court, way back in 1978, in its landmark judgment titled as “*State of Rajasthan V. Balchand alias Baliay*” , 1977 AIR 2447, 1978 SCR (1) 535. This principle finds its roots in one of the most distinguished fundamental rights, as enshrined in Article 21 of the Constitution of India. Though the underlying objective behind detention of a person is to ensure easy availability of an accused for trial without any inconvenience, however, in case the presence of an accused can be secured otherwise, then detention is not compulsory.

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15. The right to speedy trial is one of the most important rights of a detained person. However, while deciding application for regular bail, the Courts also take into consideration the fundamental precept of criminal jurisprudence, which is “the presumption of innocence”, besides the gravity of offence(s) involved.

16. In “*Gurbaksh Singh Sibbia v. State of Punjab*”, (1980) 2 SCC 565 at 586-588, the purpose of granting bail is set out by the Hon’ble Supreme Court with great felicity that ‘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 Calcutta 476 (479, 480) 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 Allahabad 504 (SB) 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

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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. H.L. Hutchinson*, AIR 1931 Allahabad 356 at p. 358 it was said that it was very unwise to make an attempt to lay down any particular rules which 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.

17. In *Gurcharan Singh v. State (Delhi Admn.)* (1978) 1 SCC 118 it was observed that "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".

18. It is relevant to note here that granting of bail lies within the discretion of the court, and granting or denial of bail is regulated, to a large extent, by the facts and circumstances of each particular case. Since the



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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 single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail.”

19. In “*Gudikanti Narasimhulu and others Versus Public Prosecutor, High Court of Andhra Pradesh*”, 1978 AIR (Supreme Court) 429, the Hon’ble Supreme Court, has enunciated the principles of bail in the following words: “thus the legal principle and practice validate the court considering the likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the process of justice. It is not only traditional but rational, in this context, to enquire into the antecedents of a man who is applying for bail to find whether he has a bad record particularly a record which suggests that he is likely to commit serious offences while on bail. In regard to habitual, it is part of criminological history that a thoughtless bail order has enabled the bailee to exploit the opportunity to inflict further crimes on the member of society. Bail discretion, on the basis of evidence about the criminal record of a defendant, is therefore not an exercise in irrelevance. The significance and sweep of Article 21 make the deprivation of liberty a matter of grave concern and permissible only when the law authorising it is reasonable, even-handed and geared to the goals of community good and State necessity spelt out in Article 19. Indeed, the considerations I have set out as criteria are germane to the constitutional

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proposition I have deduced. Reasonableness postulates intelligent care and predicates that deprivation of freedom by refusal of bail is not for punitive purpose but for the bi-focal interests of justice - to the individual involved and society affected. We must weigh the contrary factors to answer the test the reasonableness, subject to the need for securing the presence of the bail applicant. It makes sense to assume that a man on bail has a better chance to prepare of present his case than one remanded in custody. And if public justice is to be promoted. mechanical detention should be demoted. In the United States, which has a constitutional perspective close to ours, the function of bail is limited, 'community roots' of the applicant are stressed and, after the Vera Foundation's Manhattan Bail Project, monetary suretyship is losing ground. The considerable public expense in keeping in custody where no danger of disappearance or disturbance can arise, is not a negligible consideration. Equally important is the deplorable condition, verging on the inhuman, of our sub-jails, that the unrewarding cruelty and expensive custody of avoidable incarceration makes refusal of bail unreasonable and a policy favouring release justly sensible.

20. If the factual matrix of the instant case is analyzed, in the light of above discussed principles of law, it transpires that in the present case, once there is no specific attribution of injury, vis-à-vis, the weapon to the petitioner, and the petitioner has already been in custody for a period of almost 2 years, and the trial is not likely to be concluded in near future, the deprivation of fundamental right of liberty to the petitioner may result into miscarriage of justice. In addition to above, it is also necessary to note that trial is not likely to conclude in near future and most of the witnesses present



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on the spot, have not supported the prosecution case. Otherwise also the detention of petitioner in judicial lock-up is not going to serve any purpose.

21. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to the conclusion that the petitioner is entitled for the benefit of bail.

22. Accordingly, without commenting anything on the merits of the case, the present petition is hereby allowed. The petitioner is hereby admitted to bail subject to his furnishing bail bonds to the satisfaction of learned trial Court. In case, the concerned Court is not available on the given date, the learned Sessions Judge would be at liberty to assign the abovesaid case, for the abovesaid purpose, to any other Court.

**(SURYA PARTAP SINGH)
JUDGE**

SEPTEMBER 17, 2025

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No