



also sustained injuries on his head, arm and waist. His brother-in-law, Hardeep Singh tried to intervene in order to rescue them but Kamaljeet Singh etc. caused injuries to him as well. On raising alarm, the assailants escaped along with the weapons from the scene of occurrence. They were shifted to Government Hospital, Ambala for treatment from where Avtar Singh was referred to GMCH Sector-32, Chandigarh, however, he succumbed to injuries. It was also alleged that in the marriage of Narender Singh, who is brother of Kamaljeet Singh, about 2 ½ years back a fight took place between brother of Harpreet Singh, in which Avtar Singh had allegedly helped his brother and hence, there was a motive to kill Avtar Singh. Request was made to take legal action against both the assailants. On registration of FIR, the investigation commenced. The petitioner was arrested on 14.04.2019. The petitioner approached the learned Additional Sessions Judge, Ambala praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by learned Court vide order dated 09.02.2023. Aggrieved by the same, the petitioner earlier approached this Court by way of filing of CRM-M-34919-2024 but the same was dismissed as withdrawn vide order dated 02.09.2024. Hence, the petitioner is before this Court by way of filing of present second petition for grant of bail.

3. It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He submits that there are no specific allegations against any one of the accused, however, there are allegations against all the accused. He submits that the petitioner is behind bars since 14.04.2019 and he has completed incarceration of more



than 6 years, but till date trial has not been concluded. He submits that though the petitioner is involved in other cases, however, some of cases pertain to Jail offences. He further submits that out of total six accused, four co-accused including co-accused Abhimanyu @ Manu, have already been granted bail. He, thus, submits that in the facts and circumstances, the petitioner deserves to be granted bail.

4. Learned counsel for the complainant has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner is a habitual offender as he is facing prosecution in multiple cases. He submits that the case of the prosecution is based on eye-witness account and the petitioner has played an active role along with the co-accused. It is submitted that the deceased had suffered 06 injuries and the petitioner having played an active role in committing the murder, thus, there is no ground to grant bail to the petitioner. He submits that the prosecution witnesses are presented on all the dates, but despite that the defence intentionally did not cross-examine them. The delay in trial is not because of the complainant.

5. Learned State counsel has also opposed the submissions made by counsel for the petitioner. He has submitted that petitioner had not only participated in the occurrence but had also caused injuries to the deceased. He further submits that the petitioner had strong motive for committing murder of the deceased. He submits that name of the petitioner has been specifically mentioned in the FIR. He submits that out of total 33 prosecution witnesses, 11 have already been given up and as on date and 11 witnesses have been examined. He placed on record the custody certificate



of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the occurrence in the present case took place about 06 years back. The petitioner was arrested on 14.04.2019 since then he is behind bars. There is no denial to the fact that four of the co-accused have already been released on bail. This Court finds that the trial is in progress since last 06 years. The petitioner though is an accused in a murder trial, however, the speedy trial is his fundamental right. The prosecution has no plausible answer regarding the delay in the trial. The custody certificate produced would show that the petitioner has completed an actual incarceration of 06 year and 25 days as on 12.05.2025. Though the petitioner is involved in other cases, however, some of the cases pertain to jail offences.

6. As per law settled, speedy trial to the petitioner despite his involvement in multiple cases cannot be taken away. The trial of the case is likely to take sufficient time. Speedy trial is the right of every accused. 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.”



7. The Hon'ble Supreme Court in a recent decision dated 03.07.2024 in **Javed Gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024**, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India.

8. 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. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. 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 to the petitioner.

9. 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.

10. It is being clarified that in case the petitioner does not furnish bail/surety bonds within a period of one week from today, his custody will not be counted in the present case after one week.

11. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

14.05.2025

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Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No