



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-36504 of 2025

Reserved On: 09.09.2025

Pronounced On: 11.09.2025

Amit alias Salli

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

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

Present: Mr. Deepender Singh, Advocate
for the petitioner(s).

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

Mr. Amit Choudhary, Advocate
for the complainant.

Surya Partap Singh, J.

1. For the commission of offence punishable under Sections 147, 149, 188, 269, 270. 302 and 120-B IPC and Section 25 of the Arms Act, 1959, FIR No. 75 dated 04.06.2021 has been lodged in Police Station Bahin, District Palwal. During the course of investigation of above mentioned case, the petitioner was arrested on 06.07.2021. The petitioner is in custody since then, and therefore, he is craving for benefit of bail. This is first petition filed by the petitioner, for bail.

2. According to complainant, due to party faction and enmity in the village, on 03.06.2021 at about 8.45 P.M., all the accused, namely Vicky alias Vikas, Rahul, Hoshiar, Amit alias Salli, the petitioner, Bhupender alias Bageri, Lokesh Sagar, Shakti and 10-12 unknown persons came on 8-10

motorcycles at the instance of Ex-Sarpanch, namely Mahender. According to complainant, Vicky alias Vikas, Amit (the petitioner), Rahul and Bhupender launched attack upon the complainant's brother Digambar alias Diggal, fired gunshots and inflicted injuries on his person. It was detailed by the complainant that in the above mentioned incident, his brother-Digambar alias Diggal had suffered injuries which proved to be fatal.

3. As per the case set out by the prosecution, in view of the above mentioned complaint, a formal FIR was lodged in this case and the petitioner, and his accomplices arrested.

4. Heard.

5. It has been contended on behalf of petitioner that the petitioner has been falsely implicated in this case due to party faction and rivalry in the village. As per learned counsel for the petitioner, with regard to present case, the petitioner was taken into custody on 06.07.2021, and since then he is in custody continuously for a period of four years two months and two days.

6. In addition to above, the learned counsel for the petitioner has also argued that in the First Information Report, the description of weapon used by the accused and the nature of injury suffered due to role attributed to the petitioner have not been detailed, and therefore, the contents of FIR are vague and inconclusive.

7. In addition to above, it has also been argued by learned counsel for the petitioner that the prosecution case is founded upon a plea that the cause of death of deceased was two bullet injuries suffered by him and that the calibre of above bullets, found inside the body of deceased, was of 7.65

bore, whereas the calibre of gun recovered from the possession of the accused, was 3.15 bore. As pointed out by learned counsel for the petitioner, the 7.65 bore gun was recovered from the possession of co-accused, namely Rahul and not from the possession of the petitioner.

8. It has also been argued by learned counsel for the petitioner that trial is not likely to be concluded in near future and that detention of the petitioner, who has already suffered sufficient incarceration for a period of more than four years, is not likely to serve any purpose, and therefore, he is entitled for the benefit of bail.

9. Per contra, the learned State counsel, being assisted by learned counsel for the complainant, has contended that the petitioner has a coloured history, as that the custody certificate shows that in addition to present case, the petitioner has been prosecuted in eight other cases also. It has also been pointed out by learned State counsel that in one of the cases, for the commission of offence punishable under Section 354-D, 509, 120-B, 452 and 201 IPC and Section 8 of the POCSO Act, the petitioner has been convicted and sentenced to undergo sentence for a period of ten years. It has also been pointed out by learned State counsel that the total custody period of the petitioner in the present case is six months and ten days only.

10. In addition to above, it has also been pointed out by learned State counsel that the learned counsel for the petitioner, during the course of arguments, has not referred to the testimony of one eye witness, i.e. complainant-Saurabh, who has specifically mentioned that injury on the back of deceased was caused by the petitioner and that the medicolegal report support the stand of PW.1 qua the fact that the injury inflicted on the

back of the deceased was one of the injury responsible for the death. As per learned State counsel, in view of above mentioned direct evidence, and his criminal antecedents, the petitioner is not entitled for the benefit of bail.

11. The record has been perused carefully.

12. In the present case, in order to arrive at any conclusion with regard to instant petition, following are the factors which are required to be taken into consideration:-

- i) that in the present case, the petitioner was taken into custody on 06.07.2021 and since then he is in custody;
- ii) that although the custody certificate shows that technically in the present case, the custody period of the petitioner has been counted as six months and ten days only, but this fact cannot be ignored that for the last more than four years since, when the petitioner was taken into custody in this case, he has not been released from custody;
- iii) that the allegations contained in the FIR are not specific with regard to weapon of offence used by the petitioner and the injury caused;
- iv) that the investigation in this case is already completed and trial has already commenced, therefore, nothing is left to be recovered from the possession of the petitioner;
- v) that the material witnesses, i.e. the complainant and eye-witnesses have already been examined;
- vi) that the co-accused, namely Aakash alias Bakshi, Hoshiar and Sushank alias Kittu by virtue of order dated 29.01.2024, co-accused Shyam vide order dated 16.05.2024 and co-accused Jagpal vide order dated 19.03.2025, have already been accorded the benefit of bail;
- vii) that custody certificate shows that most of the cases

wherein the petitioner is being prosecuted are either regarding theft or jail offences, except one wherein the petitioner has been convicted for the offence punishable under the POCSO Act;

- viii) that nothing is left to be recovered from the possession of the petitioner;
- ix) that the detention of petitioner in the judicial lock-up is not likely to serve any purpose; and
- x) that there is a reasonable doubt as to whether the bullet injuries responsible for the death of deceased were fired by the petitioner, or someone else.

13. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the present petition deserves to be allowed. Hence, the same is hereby allowed and the petitioner is admitted to bail subject to furnishing bail bonds to the satisfaction of the learned trial Court. In case, the learned trial Court 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.

14. 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

September 11, 2025

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No