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2025:PHHC:136452



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

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Date of decision: September 29, 2025

Sonu @ Vickey

....Appellant

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Amit Khari, Advocate for the appellant.

Mr. Gurmeet Singh, AAG Haryana.

None for the complainant/ victim.

SUMEET GOEL, J. (ORAL)

Present appeal has been filed under Section 14(A)(1) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act') read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the appellant in case bearing FIR No.289 dated 04.11.2021, registered for the offences punishable under Sections 302, 120-B, 148, 149 of the Indian Penal Code, 1860 (for short 'IPC'), Section 25 of the Arms Act, 1959 (for short 'Arms Act') [Section 201 of the IPC and Section 3 of the SC/ST Act added later on], at Police Station Kosli, District Rewari.

2. The gravamen of the allegations against the appellant is that on 04.11.2021, the complainant, namely, Sushma Devi stated that she and her son, namely, Yashdev @ Ishu, along with his friend – Akshay @ Badshah had gone to the market at Kosli for Diwali shopping in their Creta car

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bearing registration No.HR10E-5358. While they were returning home and sitting in the said car, 5–7 persons opened indiscriminate fire upon them. Thereafter, Kapil, Aman, and Sunil @ DC Bhakli took them in the same vehicle to Pushpanjali Hospital, where the doctors declared them dead. The complainant further stated that on 25.08.2021, her son – Yashdev @ Ishu had earlier been attacked with indiscriminate firing on the road in front of Bhupender's office while he was going home. On that occasion, he narrowly escaped. The police inspected the spot and recovered empty cartridges, a pistol, and live rounds, and accordingly, an FIR No.219 was registered. In that case, Himanshu @ Karnel and three others were arrested, who were also found involved in other incidents that had occurred in Kosli. It was also alleged that Virender @ Karnel had threatened that since his son had gone to jail, before his son's return, he would ensure that Yashdev @ Ishu would be killed. According to the complainant, Fauji Jokhi of Bhakli, Parvez Dhaniya, Deepak Amboli, Daku Salhawas, and Golu @ Sachin have formed a gang headed by Parveen Panghal and Virender @ Karnel, who are engaged in liquor trade. The complainant further alleged that the widow sister-in-law (saali) of Virender @ Karnel, is also involved in such activities.

3. Learned counsel for the appellant has iterated that the appellant is in custody since 01.01.2022. Learned counsel has further iterated that the appellant has been falsely implicated into the FIR in question. Learned counsel has further iterated that there is a long list of 40 witnesses, out of which, only 06 have been examined till date. Learned counsel has further argued that the testimony of the FIR/complainant, namely, Sushma Devi has already been recorded as a prosecution witness. Learned counsel has further iterated that the appellant has been involved primarily on the basis of a

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disclosure statement of co-accused, namely, Parveen @ Panghal, who has been extended concession of regular bail by this Court vide order dated 24.04.2024 passed in *CRA-S-3363-2025*. Learned counsel has further iterated that two private prosecution witnesses, namely, parents of the deceased/Akshay @ Badshah are yet to be examined, but they are not the eye witnesses to the offence in question. Thus, regular bail is prayed for.

4. Learned State counsel seeks to place on record the custody certificate dated 27.09.2025 as also the status report by way of an affidavit dated 27.09.2025 of Vidyanand, HPS, Deputy Superintendent of Police, Kosli, District Rewari in the Court today, which are taken on record. Raising submission in tandem with the said status report, learned State counsel has opposed the present appeal by arguing that the allegations raised against the appellant are serious in nature and thus the appellant does not deserve the concession of the regular bail. Learned State counsel has also submitted on the strength of averments contained in paragraph 26 of the said status report that the complainant/ victim side has also been informed.

4.1. Case was called out twice, but none has caused appearance on behalf of the complainant/ victim side.

5. I have heard counsel for the rival parties and have gone through the available records of the case.

6. The appellant was arrested on 01.01.2022 and is in continuous custody since then. After culmination of investigation, challan *qua* the appellant was presented on 10.02.2022. Total 40 prosecution witnesses have been cited, but only 06 have been examined till date. It is thus, indubitable that conclusion of the trial will take long time. The rival contentions raised at Bar give rise to debatable issues, which shall be ratiocinated upon during

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the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the appellant absconding from the process of justice or interfering with the prosecution evidence.

7.1. At this juncture, it would be apposite to refer herein a judgment of the Hon'ble Supreme Court in *Javed Gulam Nabi Shaikh vs. State of Maharashtra and anothers, 2024(3) RCR (Criminal) 494*, which reads thus:

“18. Criminals are not born out 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.

19. 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.

20. We may hasten to add that the appellant is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.

21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”

7.2. As per custody certificate dated 27.09.2025 filed by learned State counsel, the appellant has already suffered incarceration for a period of 03 years, 08 months and 27 days. Further, as per the said custody certificate, the appellant is stated to be involved in other FIR(s). However, this factum cannot be a ground sufficient by itself, to decline the concession of regular

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bail to the appellant in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586*, a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das v. State, 1998 (2) RCR (Criminal) 477* & judgments of this Court in CRM-M No.38822-2022 titled as *Akhilesh Singh v. State of Haryana*, decided on 29.11.2021, and *Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191*.

Suffice to say, further detention of the appellant as an undertrial is not warranted in the facts and circumstances of the case.

8. In view of above, the present appeal is allowed. Appellant is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the appellant shall remain bound by the following conditions:

- (i) The appellant shall not mis-use the liberty granted.
- (ii) The appellant shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The appellant shall not absent himself on any date before the trial.
- (iv) The appellant shall not commit any offence while on bail.
- (v) The appellant shall deposit his passport, if any, with the trial Court.
- (vi) The appellant shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The appellant shall not in any manner try to delay the trial.

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9. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the appellant.

10. Ordered accordingly.

11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

September 29, 2025

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No