2025:PHHC:066243

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CRM M-14599 of 2025**
Date of Decision: 15.05.2025

Sumit ...Petitioner

Versus

State of Haryana ... Respondent

2. **CRM M-10651 of 2025**

Harshit ...Petitioner

Versus

State of Haryana ... Respondent

3. **CRM M-42155 of 2024**

Himanshu Alias Shontu ...Petitioner

Versus

State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Rahul Makkar, Advocate, for the petitioner in CRM M-14599 of 2025.

Mr. Robin Singh Hooda, Advocate for the petitioner in CRM M-10651 of 2025.

Mr. Akash Juneja, Advocate for the petitioner in CRM M-42155 of 2024.

Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. This order shall dispose off three petitions, i.e., **CRM M-14599-2025** titled as **"Sumit Vs. State of Haryana", CRM**

M-42155-2024 titled as **"Himanshu @ Shontu Vs. State of Haryana"** and **CRM M-10651 of 2025** titled as **"Harshit Vs. State of Haryana",** whereby, the petitioners have prayed for grant of regular bail to them in case arising out of FIR No. 235 dated 05.06.2020 registered under Sections 148, 149, 302, 307, 323, 201 and 120-B IPC and Section 25 of the Arms Act at Police Station Purani Sabzi Mandi, District Rohtak.

2. Learned counsel appearing on behalf of Sumit (petitioner in CRM M-14599 of 2025) submits that the petitioner has been falsely named in the FIR due to some previous enmity. As per the complainant, the incident was recorded on his mobile phone by Bhagwan Dass @ Guddu, however, Bhagwan Dass @ Guddu has not been made a witness in the present case intentionally. Still further, the prosecution has introduced a witness, Paras, who was nowhere mentioned in the initial proceedings. Still further, as per the FSL report, no blood was found on the knife, which was allegedly recovered from the present petitioner. Consequently, the story projected by the prosecution is highly suspicious and unbelievable. The petitioner was arrested in the present case on 05.06.2020 and is in custody for the last more than 04 years and 11 months. The prosecution has been able to examine only 06 witnesses out of 35

witnesses and further custody of the petitioner will not serve any purpose.

3. Learned counsel appearing on behalf of Harshit (petitioner in CRM M-10651 of 2025) submits that the petitioner was not named in the FIR and has been arrayed as an accused on the basis of the disclosure statement made by co-accused, namely, Vishal @ Som. The petitioner was arrested in the present case on 08.06.2020 and is in custody since then. Learned counsel further contends that the petitioner is in custody for the last more than 04 years and 11 months and there was no evidence to connect him with the commission of the crime. Even, the material witness, i.e., the complainant has already been examined and the petitioner is not in a position to influence the witnesses of the prosecution. Even, the recovery of knife has been planted on him.

4. Further, learned counsel appearing on behalf of Himanshu @ Shontu (petitioner in CRM M-42155 of 2024) submits that the petitioner was not named in the FIR and had been falsely framed in a criminal case. He was wrongly arrested in the present case on 23.10.2022 and is in custody since then. Even, it was falsely alleged that the only role attributed to the petitioner was that he was holding the legs of the deceased alongwith his co-accused and no specific injury has been attributed to him. Even, the name of the

petitioner was not known to the complainant side and no test identification parade was conducted in the present case. Thus, there was no evidence to show that the petitioner had allegedly participated in the commission of the crime. Moreover, the petitioner is not in a position to influence the witnesses of the prosecution.

5. Reply by way of an affidavit of the Deputy Superintendent of Police, Rohtak, has been filed on behalf of the respondent-State in CRM M-14599 of 2025 and the same is taken on record.

6. Learned State counsel has vehemently opposed the submissions made by the petitioners on the ground that all the petitioners were involved in the crime and did not deserve the concession of bail. Sumit, petitioner was specifically named in the FIR and had caused injuries with a knife to the deceased. Further, the names of Harshit and Himanshu @ Shontu had appeared in the disclosure statements of various accused and they had also caused injuries to Ramandeep @ Shubham and the injured as Vishal @ Som, co-accused was nourishing the grudge against the family of the deceased. In fact, Ramandeep @ Shubham had made a complaint to the parents of Vishal @ Som on account of his drinking and abusing habit. Due to this, Vishal @ Som wanted to take revenge from Ramandeep @ Shubham and he alongwith his co-accused had attacked Ramandeep @ Shubham with a knife in a planned manner

and when the complainant reached at the spot, Vishal @ Som also caused injury to him with a knife. Learned State counsel further submits that Ramandeep @ Shubham had died due to the injuries caused by the petitioner and even the injuries suffered by Robin, injured have been declared to be dangerous to life. Learned State counsel submits that the prosecution has examined 06 witnesses out of total 35 witnesses and 29 witnesses are yet to be examined.

7. I have heard the learned counsel for the parties and perused the record carefully.

8. It has been held by the Hon'ble Supreme Court in the matter of ***"Ranjan Dwivedi Vs. CBI, through the Director General, 2012(8) SCC 495; 2012 (4) RCR (Criminal) 880"*** as follows:-

> *"14. In Kartar Singh v. State of Punjab, (supra), another Constitution Bench considered the right to speedy trial and opined that the delay is dependent on the circumstances of each case, because reasons for delay will vary. This Court held :*
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> *"84. The right to a speedy trial is a derivation from a provision of Magna Carta. This principle has also been incorporated into the Virginia Declaration of Rights of 1776 and from there into the Sixth Amendment of the Constitution of United States of America which reads, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial...". It may be pointed out, in this connection, that there is a Federal Act of 1974 called 'Speedy Trial Act' establishing a set of time-*

limits for carrying out the major events, e.g., information, indictment, arraignment, in the prosecution of criminal cases. [See Black's Law Dictionary, 6th Edn. Page 1400].

85. The right to a speedy trial is not only an important safeguard to prevent undue and oppressive incarceration, to minimise anxiety and concern accompanying the accusation and to limit the possibility of impairing the ability of an accused to defend himself but also there is a societal interest in providing a speedy trial. This right has been actuated in the recent past and the courts have laid down a series of decisions opening up new vistas of fundamental rights. In fact, lot of cases are coming before the courts for quashing of proceedings on the ground of inordinate and undue delay stating that the invocation of this right even need not await formal indictment or charge.

86. The concept of speedy trial is read into Article 21 as an essential part of the fundamental right to life and liberty guaranteed and preserved under our Constitution. The right to speedy trial begins with the actual restraint imposed by arrest and consequent incarceration and continues at all stages, namely, the stage of investigation, inquiry, trial, appeal and revision so that any possible prejudice that may result from impermissible and avoidable delay from the time of the commission of the offence till it consummates into a finality, can be averted. In this context, it may be noted that the constitutional guarantee of speedy trial is

properly reflected in Section 309 of the Code of Criminal Procedure.

87. This Court in Hussainara Khatoon v. Home Secretary, AIR 1979 Supreme Court 1360, State of Bihar while dealing with Article 21 of the Constitution of India has observed thus: (SCC p. 89, para 5)

"No procedure which does not ensure a reasonably quick trial can be regarded as 'reasonable, fair or just' and it would fall foul of Article 21. There can, therefore, be no doubt that speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21. The question which would, however, arise is as to what would be the consequence if a person accused of an offence is denied speedy trial and is sought to be deprived of his liberty by imprisonment as a result of a long delayed trial in violation of his fundamental right under Article 21. Would he be entitled to be released unconditionally freed from the charge levelled against him on the ground that trying him after an unduly long period of time and convicting him after such trial would constitute violation of his fundamental right under Article 21."

See also (1) Sunil Batra v. Delhi Administration (I), (2) Hussainara Khatoon (I) v. Home Secretary, State of Bihar, (3) Hussainara Khatoon (IV) v. Home Secretary, State of Bihar, Patna, (4) Hussainara Khatoon (VI) v. Home Secretary, State of Bihar, Govt. of Bihar, Patna, (5) Kadra Pahadia v. State of Bihar (II), (6) T.V. Vatheeswaran v. State of T.N., and (7) Abdul Rehman

Antulay v. R.S. Nayak. 88. Thus this Court by a line of judicial pronouncements has emphasised and re-emphasised that speedy trial is one of the facets of the fundamental right to life and liberty enshrined in Article 21 and the law must ensure 'reasonable, just and fair' procedure which has a creative connotation after the decision of this Court in Maneka Gandhi."

The Court further observed : "92. Of course, no length of time is per se too long to pass scrutiny under this principle nor the accused is called upon the show the actual prejudice by delay of disposal of cases. On the other hand, the court has to adopt a balancing approach by taking note of the possible prejudices and disadvantages to be suffered by the accused by avoidable delay and to determine whether the accused in a criminal proceeding has been deprived of his right of having speedy trial with unreasonable delay which could be identified by the factors - (1) length of delay, (2) the justification for the delay, (3) the accused's assertion of his right to speedy trial, and (4) prejudice caused to the accused by such delay. However, the fact of delay is dependent on the circumstances of each case because reasons for delay will vary, such as delay in investigation on account of the widespread ramification of crimes and its designed network either nationally or internationally, the deliberate absence of witness or witnesses, crowded dockets on the file of the court etc."

9. Hon'ble the Supreme Court in **Gudikanti Narasimhulu and others v. Public Prosecutor, AIR 1978 SC 429** has held as under:-

> *"Bail or Jail"- at the pre-trial or post-conviction stage - largely hinged on judicial discretion. The learned Judge held that personal liberty was too precious a value of our constitutional system recognised under Article 21 that the crucial power to negate it was a great trust exercisable not casually but judicially, with lively concern for the cost to the individual and the community. It was further held that deprivation of personal freedom must be founded on the most serious considerations relevant to the welfare objectives of society specified in the Constitution. The learned Judge quoted Lord Russel who had said that bail was not to be withheld as a punishment and that the requirements as to bail were merely to secure the attendance of the prisoner at trial. According to V.R. Krishna Iyer, J., the principal rule to guide release on bail should be to secure the presence of the applicant to take judgment and serve sentence in the event of the Court punishing him with imprisonment. After holding that it makes sense to assume that a man on bail has a better chance to prepare and present his case than one remanded in custody the learned Judge observed that if public justice is to be promoted mechanical detention should be demoted.*

10. **In Gurbaksh Singh Sibbia etc Vs The State of Punjab, AIR 1980 SC 1632,** Hon'ble the Supreme Court has observed as under:-

> *"Judges have to decide cases as they come before them, mindful of the need to keep passions and prejudices out of their decisions. The Court has also observed that in which case bail should be granted and in which case it should be refused is a matter of discretion. The court found it interesting to note that as long back as in 1924 it was held by the High Court of Calcutta in Nagendra Vs. King Emperor, AIR 1924 Calcutta 476, that the object of bail was 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 was whether it was probable that the party would appear to take his trial and that it was indisputable that bail was not to be withheld as a punishment. The Supreme Court also referred to the observation of the Allahabad High Court in* ***K.N. Joglekar Vs. Emperor, AIR 1931 Allahabad 504,*** *that Section 498 of the Old Code which corresponds to Section 439 of the New Code, 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. The Allahabad High Court had also observed that there was no hard and fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and that the only principle which was established was that*

the discretion should be exercised judiciously. The Supreme Court referred also the decision of the Allahabad High Court in Emperor Vs. H.L. Hutchinson, AIR 1931 Allahabad 356, wherein it was held that the principle to be deduced from the various sections in the Cr.P.C. was that grant of bail is the rule and refusal is the exception, that as a presumably innocent person, the accused person is entitled to freedom and every opportunity to look after his own case and to establish his innocence and that 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. The High Court had also held that it would be very unwise to make an attempt to lay down any particular rules which would 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 bail may be granted but not in other classes. The Supreme Court apparently approved the above views and observations and held (vide paragraph 30) as follows :

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

11. At this stage, it is observed that the object of the bail is to secure the presence of the accused at the trial only. It is also observed that the object of bail is neither punitive nor preventive and deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. Hon'ble the Supreme Court has observed in catena of judgments that when a person is punished by denial of bail in respect of any matter upon which he has not been convicted it would be contrary to the concept of personal liberty enshrined in the Constitution except in cases where there is reason to believe that he may influence the witnesses. It is appropriate to say that pre-conviction detention should not be resorted to, except in cases of necessity to secure attendance at the trial or upon material that the accused will tamper with the witnesses if left at liberty.

12. From the perusal of the allegations levelled in the FIR, it is established that the complainant has levelled very serious allegations against Sumit, petitioner and his co-accused. Even, the police had collected evidence against Harshit and Himanshu @ Shontu and it was alleged that they had participated in the occurrence alongwith Sumit and others. However, the Court cannot keep the accused behind the bars as under-trial prisoners for an indefinite period. In the present case, the accused are confined in jail for the last several years and the prosecution has been able to examine only 06

witnesses out of 35 witnesses. Thus, the delay in concluding the trial amounts to violation of rights of the petitioners under Article 21 of the Constitution of India and since the trial has been unreasonably delayed, the petitions deserve to be allowed by this Court.

13. In view of the above discussion, without commenting any further on the merits, the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned subject to the following conditions:-

> *(i) The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
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> *(ii) The petitioners shall remain present before the Court on the dates fixed for hearing of the case.*
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> *(iii) The petitioners shall not absent themselves from the Court proceedings except on the prior permission of the Court concerned.*
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> *(iv) The petitioners shall surrender their passports, if any, (if already not surrendered), and in case they are not holders of the same, they shall swear an affidavit to that effect.*
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> *(v) The petitioners shall also file their affidavit before the concerned Court, mentioning their ordinary place of residence and number of mobile phone, which shall be used by them during the pendency of the trial. In case of*

change of place of residence/mobile number, they shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioners get involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move an appropriate application for cancellation of bail granted to the present petitioners.

(*vii) The concerned Court may insist two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioners.*

(viii) The petitioners shall report every 1st Monday in English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark their presence by making an entry in the Rojnamcha. In case, they do not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to them shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.

15.05.2025 **(N.S.SHEKHAWAT)**
amit rana **JUDGE**

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