



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

219

CRM-M-5345-2026 (O&M)

Decided on : 24.03.2026

Vishal @Vishu

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present: Mr. Vishal R. Lamba, Advocate and
Mr. Siddharth Singh Chholua, Advocate
for the petitioner.

Ms. Deepali Verma, AAG Haryana.

SURYA PARTAP SINGH, J. (Oral)

This petition is the third petition for bail, filed by the petitioner under Section 483 of 'the Bharatiya Nagrik Suraksha Sanhita', 2023. It has been filed with regard to a case arising out of FIR No.140 dated 03.05.2022, for the commission of offence punishable under Sections 147, 149, 323, 120-B and 302 of IPC [Section 506 IPC added later on], Police Station Sector 9A, District Gurugram Haryana.

2. The FIR of this case came into being at the instance of 'Rohit Solanki' hereinafter being referred to as 'complainant' only. It was stated by the abovenamed complainant that on 02.05.2022 he had attended a wedding program in the Community Centre Sector-9 Gurugram, where his brother Sumit also came. As per complainant when they were participating in the abovementioned function Vishal @Vishu took him behind the tent, where Rahul Thakur, Akash, Anshul, Anubhav alias Guddu and Sonu were already



present and they thrashed him with kicks and punches. According to abovenamed complainant, he ran away from the spot and went to Civil Hospital, Gurugram, and after receiving treatment when he was going back to the Community Centre Sector-9, Gurugram his younger brother Sumit met him near the liquor vend, and advised him to leave the spot immediately. As per complainant in view of advice of his brother Sumit, he left the abovesaid spot with his friend Sahil alias Mulla on his motorcycle and later on he was informed by Nikhil, that his brother Sumit had been attacked and killed by Vishal @Vishu (the petitioner herein), Rahul, Akash, Anshul, Guddu, Sonu, Vicky Gurjar and 10-15 other boys.

3. It is the case of the prosecution that in view of abovementioned statement, formal FIR of this case was lodged and the investigation taken up. According to prosecution, during the course of investigation the accused was arrested.

4. Custody Certificate as well as status report has been filed by learned State Counsel. The same be taken on record.

5. Heard.

6. It has been contended by learned counsel for the petitioner that petitioner has already suffered prolonged incarceration for being in custody for a period of more than three years and one month and that nothing has been left to be recovered from the possession of petitioner. It has also been contended by learned counsel for the petitioner that the petitioner has clean antecedents and that the benefit of bail has already been accorded to similarly placed co-accused.



7. In addition to above, the learned counsel for the petitioner has also contended that in the present case there are three eyewitnesses but out of them, the witnesses Sahil and Aman have not supported the prosecution case with regard to involvement of petitioner in the commission of crime.

8. The learned State Counsel has controverted the abovementioned arguments. According to learned State Counsel, the allegations against the petitioner is of actively participation in the commission of heinous crime like murder and that the factual matrix of the present case shows that it was a cold-blooded murder. The learned State Counsel has also contended that one eye-witness has supported the present case and that the petitioner is not entitled for the benefit of bail.

9. The record has been perused carefully.

10. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration for a decision:-

- i. that the petitioner is already in custody for a period of more than three years and one month;
- ii. that the trial is taking place at a slow pace as out of twenty seven witnesses, only sixteen prosecution have been examined so far;
- iii. that two eyewitnesses have not supported the prosecution case;
- iv. that nothing has been left to be recovered from the possession of petitioner;
- v. that the last petition for bail, filed by the petitioner, was dismissed more than eleven months ago;



- vi. that the benefit of bail has already been accorded to the similarly placed co-accused;
- vii. that the detention of petitioner in judicial lock-up is not likely to serve any purpose;
- viii. that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and
- ix. that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.

11. In the present case, the principles of law laid down by the Hon'ble Supreme Court of India in the case of "Dataram versus State of Uttar Pradesh and another", 2018(2) R.C.R. (Criminal) 131, are relevant, wherein it has been observed that "a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but



even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

12. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil Vs. Central Bureau of Investigation and Another’, (2022) 10 SCC 51, are also relevant in this case. In the abovementioned case, it has been observed that “the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.

13. Recently, in the case of ‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2025 SCC Online SC 322, the Hon’ble Supreme Court of India has observed that “if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that “delays are



bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”.

14. To elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as mandated by Hon’ble Apex court in “Balwinder Singh versus State of Punjab and Another”, 2024 SCC Online SC 4354.

15. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

16. Accordingly, without commenting anything on the merits of the case, the present petition is hereby *allowed*. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However the abovementioned concession shall be subject to following conditions:-

- (i) that the petitioner 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.



- (ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- (iii) that the petitioner shall not leave India without prior permission of the trial Court.

(SURYA PARTAP SINGH)
JUDGE

24.03.2026

Vinod

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No