



CRM-M-62189-2024

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[309] IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-62189-2024

Date of Decision :16.07.2025

Harjinder Singh alias Raj  
alias Rajinder Singh

...Petitioner

versus

State of Punjab

....Respondent

Coram : **HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Sukhjot Singh, Advocate  
for the petitioner.

Mr. Jatinder Pal Singh, Sr. DAG, Punjab  
for the respondent-State.

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**SUMEET GOEL, J. (ORAL)**

1. Present second petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.44 dated 11.07.2022 under Sections 307, 324, 323,506 and 34 of the IPC, registered at Police Station Maloud, District Khanna, Ludhiana.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

*“Statement of Tirath Singh son of Nachhattar Singh resident of village Sihora, PS Maloud, District Ludhiana aged about 27 years. mobile No.81959-75814. Stated that I am resident of above stated address and working as a meson (Raj Mistri). We are three brothers. My brother Balbir Singh is married. I and my elder brother Avtar Singh are unmarried. Avtar Singh resides in Gurudwara Sahib and we are residing alongwith our parents. My father Nachhattar Singh is running a cycle repair shop near co-operative Bank Sehora. My uncle Harjinder Singh @ Raj son of Gurdial Singh is running a shop of slippers making adjoining the shop of my father.*



*My uncle Harjinder Singh @ Raj and his son Angrej Singh used to sleep in their shop at night. On 10.07.2022 at about 9.30 PM my uncle Harjinder Singh @ Raj used bad words against my mother before my father Nachhattar Singh and due to that altercation took place between Harjinder Singh and my father Nachhattar Singh, but with the intervention of the villagers the matter was sought out. When I came to know about the same I brought my father back to home. At about 11.30 PM my father told me that our shop had been left without lock and told me that he is coming back after locking the shop and my father went to the shop from our house. I started watching my father by standing at road and when my father was closing the shutter of the shop, then my uncle Harjinder Singh @ Raj and his son Angrej Singh came out of their shop. Angrej Singh started abusing my father loudly and my uncle was carrying his artisan to used for the cutting of leather i.e. rambi and he proceeded towards my father and I came forward to rescue my father, but my uncle attacked my father on the left side his stomach with above said took with intention to kill him and my father received grievous injury and his intestine were exposed. Thereafter my uncle again attacked my father on his face and on head with the above said took which hit on the right jaw of my father. Thereafter, my uncle Harjinder Singh @ Raj attacked with above said tool and my father raised his left arm for his rescue which hit the underarm of my father and my father got seriously injured and as a result of the injuries my father fell down. While my father was lying down, then Angrej Singh kicked him with his feet and my uncle Harjinder Singh @ Raj again attacked my father on his back with the above said took when he was lying down. I raised alarm and the people from the neighborhood started gathering at the spot and my uncle and his son while giving threats to us went back into their shop and locked the shutter from inside. I got admitted my father to civil hospital Maloud from where he was referred to civil hospital, Ludhiana and from where he was again referred to Rajindera Hospital, Patiala, the treatment of my father is going on and still he is unconscious. The bone of contention is that my uncle Harjinder Singh @ Raj used bad words for my mother Bhinder Kaur and my father stopped him from doing the same and due to that my uncle Harjinder Singh @ Raj and his son Angrej Singh gave injuries to my father. I have got recorded my statement to you at Rajindra Hospital, Patiala and heard the same. Legal action may kindly be taken. Sd/- Tirath Singh.”*

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 12.07.2022. Learned counsel for the petitioner has further submitted that, in fact, it was the FIR-complaint side which was the



aggressor and the petitioner has only acted in furtherance of his right to defence. Learned counsel for the petitioner has further argued that the petitioner is alleged to have used tool namely '*rambi*', which is an ordinary implement available in the petitioner's avocation. Learned counsel for the petitioner has further submitted that the entire prosecution evidence stands led and only one witness, namely, the Government Doctor is required to be examined. It is on this basis, it has been argued that there is no chance that the petitioner is in a position to influence prosecution witness. Learned counsel for the petitioner has further argued that the petitioner is a man aged 69 years with no criminal antecedents. Thus, regular bail is prayed for.

4. *Per contra*, learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel has further submitted that the instant bail petition is a second regular bail petition & thus in view of no change in circumstance, the same deserves to be dismissed. Learned State counsel seeks to place on record custody certificate dated 15.07.2025 in Court, which is taken on record.

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

6. The petitioner was arrested on 12.07.2022 and is in continuous custody till date. Challan was presented in the case on 04.10.2022 wherein 09 prosecution witnesses have been cited out of which 08 have been examined. It is not in dispute that only one Prosecution witness, namely, the government doctor, is to be examined at the instance of the prosecution. As the prosecution evidence nears its fag end, the very premise for the continued incarceration of the petitioner is significantly attenuated. The apprehension of the petitioner influencing or tampering with the prosecution



witnesses, a common ground for denial of bail, is rendered largely moot in such circumstances. As the venerable legal maxim goes '*Cessante ratione legis, cessat ipsa lex*' – when the reason for the law ceases, the law itself ceases—duly encapsulates within its ambit, the factual milieu of the instant case. The primary rationale for pre-trial detention, securing the integrity of the prosecution's case and ensuring the accused's presence at trial, is substantially diminished when the evidentiary phase of the prosecution is virtually complete. Furthermore, it is a cardinal principle of criminal jurisprudence that the right to a fair trial is paramount, an indispensable facet of which is the accused's opportunity to present a robust defense. Although the right to lead by an accused is regulated by sec 233 Cr.P.C., *nonetheless*, it is one of the most valuable rights. A criminal trial is not a one-sided affair; it embodies the adversarial system where both the prosecution and the defense must be afforded an equal, if not greater, opportunity to substantiate their respective cases. To effectively exercise this inalienable right to lead defense evidence, the physical liberty of the accused is often an essential factor. A person confined to custody faces considerable impediments in consulting with legal counsel, gathering defense witnesses, and preparing their strategy. Denial of liberty at this advanced stage, when the prosecution's evidentiary edifice is almost complete, can severely cripple the defense, thereby striking at the very root of a fair trial. *Audi alteram partem* – hear the other side – is a fundamental dictate of natural justice, and denying bail when there's no palpable risk of witness tampering would be to render this maxim nugatory. At this juncture, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in '*Gudikanti Narasimhulu and others versus Public Prosecutor, High Court of Andhra Pradesh*', 1978 AIR (SC) 429, relevant part thereof reads as



under:-

*“11. We must weight the contrary factors to answer the test the reasonableness, subject to the need for securing the presence of the bail applicant. It makes sense to assume that a man on bail has a better chance to prepare of present his case than one remanded in custody. And if public justice is to be promoted, mechanical detention should be demoted.”*

The rival contentions raised at Bar, give rise to debatable issue, which shall be ratiocinated upon during 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 petitioner absconding from the process of justice or interfering with the prosecution evidence.

As per custody certificate dated 15.07.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than three years and is not shown to be involved in any other case.

7. The petition in hand is the second attempt on part of the petitioner to secure regular bail. The first petition preferred by the petitioner was dismissed as withdrawn on 20.04.2024. Keeping in view the total factual milieu of the case in hand, especially the extended custody of the petitioner, and the trial having not culminated till date, this Court is inclined to favorably considered the instant bail petition. This is the second attempt by the petitioner before this court for enlargement on bail—the earlier one having been ‘Dismissed as withdrawn’ vide order dated 20.04.2024. It is axiomatic that for consideration of subsequent bail petition, a change in circumstances must be shown. Considering the factum of continued incarceration as well as the prosecution evidence phase nearing its fag end, this court deems it appropriate to favorably consider the instant bail petition.



A profitable reference in this regard is being made to the dicta passed by this Court in ***Rafiq Khan vs. State of Haryana and Anr.: 2024(2) RCR (Criminal) 819***; relevant whereof reads, thus:

*“10. As an epilogue to the above discussion, the following principles emerge:*

*I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.*

*II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.*

*III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.*

*IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the **Court** dealing with such second/successive regular bail petition(s).*

*V In case a **Court** chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a **Court** having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”*

Suffice to say, further detention of the petitioner as an under trial is not warranted in the facts and circumstances of the case.

8. In view of above, the present petition is allowed. Petitioner 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 petitioner shall remain bound by the following conditions:

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or



documentary, during the trial.

(iii) The petitioner shall not absent himself on any date before the trial.

(iv) The petitioner shall not commit any offence while on bail.

(v) The petitioner shall deposit his passport, if any, with the trial Court.

(vi) The petitioner shall give his cell-phone 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/Illaq Magistrate.

(vii) The petitioner shall not in any manner try to delay the trial.

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 petitioner.

10. Ordered accordingly.

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

**(SUMEET GOEL)**  
**JUDGE**

16.07.2025

*Ajay*

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>