



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

(129)

CRM-M-73642-2025 (O&M)

Date of decision : 10.03.2026

MALKEET SINGH @ SAMAR

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Akhilesh Vyas, Advocate for the petitioner

Ms. Ruchika Sabherwal, Sr. DAG, Punjab

MANISHA BATRA, J. (ORAL)

1. The instant petition has been preferred by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") for grant of regular bail in case arising out of FIR No.217 dated 28.10.2023 registered under Sections 302, 34 of IPC and Section 25 and 27 of Arms Act (Section 379(b)(2) and 120B of IPC added later on) at Police Station Civil Lines, District Police Commissionerate Amritsar.

2. The aforementioned FIR was registered on the basis of the statement got recorded by the complainant Avinash Malhotra alleging that on 27.10.2023, he alongwith his friend Rakesh Kumar was going to attend some Jagran at Dayanand Nagar, Fatehgarh Churian Road on the Activa vehicle of



Rakesh Kumar. He was the pillion rider and was carrying a black coloured bag with him. When they reached near Anand Avenue Turn, they were intercepted by 03 youths who came riding on a motorbike from the backside. The pillion rider pounced over the bag of the complainant and snatched the same. The complainant raised alarm but the driver of the motorbike fired a shot with a weapon which he was carrying in his right hand. The bullet hit his companion Rakesh Kumar who had fallen down with the Activa vehicle. On clamour being raised by the complainant, some persons had reached there. The assailants fled away. The victim Rakesh Kumar was rushed to the hospital but had succumbed to the fire arm injury. After registration of FIR, investigation proceedings were initiated. One empty cartridge case .32 bore was recovered from the spot of occurrence. Post-mortem of the dead body was conducted and one lead bullet was recovered from the same. During investigation, the complainant recorded his supplementary statement to the effect that at time of incident, the wallet of the victim was in his bag which was snatched by the assailants since on the way they had got fuel filled in their Activa vehicle and at that time, the wallet was given by the victim to him.

3. As per the further allegations, the accused Rajinder Singh @ Ashu, Suraj and Danish Gill, who were arrested in some other case bearing FIR No.216 dated 28.10.2023 registered at Police Station Civil Lines, Amritsar suffered disclosure statements on 03.11.2023 admitting their involvement in this case and were nominated as accused in this case. After being joined into investigation, the accused Suraj suffered disclosure statement wherein besides



admitting his involvement in this case, he disclosed that the pistol used by him in commission of murder of the victim had been given to him by the present petitioner and one Sarabjit Singh @ Sonu Cylinder and it was on the asking of them, that he alongwith the co-accused Rajinder Singh @ Ashu had committed the subject offence. The said pistol already stood recovered in case bearing FIR No.216 dated 28.10.2023. The petitioner and co-accused Sarabjit Singh @ Sonu Cylinder were nominated as additional accused. The complainant Avinash Malhotra identified the accused Rajinder Singh @ Ashu, Suraj and Danish Gill. He also identified the wallet of the deceased which was recovered from the co-accused. The petitioner and co-accused Sarabjit Singh @ Sonu Cylinder were in custody in some other case bearing FIR No.184 of 2023 registered at Police Station Civil Lines, Amritsar, their presence was secured in this case by way of issuance of production warrants and they were formally arrested on 09.11.2023. They were interrogated and admitted that one countrymade pistol had been provided by them to accused Suraj who had asked for the same. Offences under Section 379(b)(2) read with Section 120B of IPC and Section 29(2) of Arms Act were added. Investigation now stands completed and the petitioner alongwith the co-accused are facing trial for the commission of aforementioned offences.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of the disclosure statement of co-accused Suraj which cannot be considered to be admissible in evidence. The only role that has been attributed to him is of supplying a pistol to the co-accused Suraj. There is no allegation that he had any hand in the murder of the



victim. The complainant Avinash Malhotra already stands examined and had identified the co-accused Suraj, Rajinder Singh @ Ashu and Danish Gill as the assailants. He had not uttered anything against the petitioner. The petitioner is in custody since long. The trial will take considerable time to conclude. His further incarceration would not serve any useful purpose. His involvement in other two cases cannot be considered to be a reason for denying benefit of bail to him. The co-accused Suraj and Danish Gill have already been extended benefit of bail. On parity, he too deserves to be extended the same benefit. It is, therefore, argued that the petition deserves to be allowed.

5. Per contra, learned State counsel has argued that the allegations against the petitioner are quite serious in nature, as he had provided the pistol used by the co-accused Suraj in commission of offence of committing murder of the victim Rakesh, while snatching the bag of the complainant. The co-accused Suraj had disclosed that the subject offences were committed by him on the direction of the present petitioner. Taking into consideration the gravity of the allegations, it is argued that the petitioner does not deserve to be extended benefit of bail.

6. This Court has heard the rival submissions made by learned counsel for the parties at considerable length.

7. The petitioner is alleged to have provided a pistol to the co-accused Suraj. The same pistol had allegedly been used at the time of commission of the subject offences by the above-said accused, who had fired a shot with the same,



thereby causing homicidal death of the victim-Rakesh Kumar. The said pistol has been recovered at the instance of the co-accused only. The petitioner was not named in the FIR and has been involved in this case on the basis of the disclosure statement of the co-accused Suraj. The petitioner has placed on record copy of sworn deposition of the complainant. A perusal of the same reveals that he did not say anything about the present petitioner. Though as per the allegations, the accused Suraj disclosed that it was on asking of the present petitioner and the pistol being provided to him, the occurrence had been committed alongwith the co-accused Danish Gill and Rajinder Singh @ Ashu, however, at this stage, there is no material on record to show that the petitioner had any motive to get the victim killed or it was at his instance that the offences were committed by the co-accused Suraj, Danish Gill and Rajinder Singh @ Ashu. The role attributed to the petitioner prima facie appears to be limited to facilitating supply of a fire arm and no commission of the principal homicidal act and as such it is distinct from the offence of murder. The linkage sought to be established between the petitioner and the act of supply of arms, primarily rests on the disclosure statement of the co-accused and circumstantial inferences is that of a conduit or a facilitator in the purported procurement of fire arms which is a distinct and remote offence from the direct commission of offences punishable under Section 302 of IPC. This Court is conscious that the provision is serious, however, in present purposes, the Court must test whether the material against the petitioner justifies continued pre-trial incarceration bearing nature of evidence and the progress of the trial. Since the case against the



petitioner rests on disclosure statement of the co-accused, this is a matter best left for trial whether the burden of proof and standard of evidence shall be applied rigorously. The petitioner is in custody since 11.11.2023 and the conclusion of the trial in the near future are bleak as only 05 prosecution witnesses have been examined so far. In view of the foregoing discussion, particularly the limited role is prescribed to the petitioner, this Court is of the considered opinion that the continued detention of the petitioner would not serve the ends of justice. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned

8. It is, however, clarified that the observations made above shall not be construed as an expression of opinion of this Court on the merits of the case and shall not influence the outcome of the trial in any manner.

9. Since the main petition has been allowed pending application, if any, is rendered infructuous.

(MANISHA BATRA)
JUDGE

10.03.2026

Amit Sharma

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No