

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

[Through Virtual Mode]

Bail App No. 215/2025

Reserved On: 24th of March, 2026.

Pronounced On: 2nd of April, 2026.

Uploaded On: 2nd of April, 2026.

Whether the operative part or
full Judgment is pronounced: **Full.**

Bhopinder Singh, Age: 51 Years
S/O Pargat Singh
R/O Phinder, Jammu
A/P Central Jail Kot Balwal, Jammu.

... **Petitioner(s)**

Through: -
Mr A. P. Singh, Advocate.

V/s

State of J&K (now UT),
Through SHO Police Station Miran Sahib, Jammu.

... **Respondent(s)**

Through: -
Mr Pawan Dev Singh, Dy. AG.

CORAM: HON'BLE MR JUSTICE SHAHZAD AZEEM, JUDGE.

(JUDGMENT)

01. The Petitioner is an undertrial, who is charged for the commission of offences punishable under Sections 302/ 34 of the Ranbir Penal Code ["RPC"] and Section 30 of the Indian Arms Act ["IA Act"], seeks bail by invoking the jurisdiction of this Court under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"], after having similar prayer stand rejected by the learned Trial Court.

02. PW1- Gurdeep Kour, the mother of the deceased-Karamjit Singh, on 07 March 2017, lodged a report at Police Station Miran Sahib, alleging therein that at about 6:15 PM, while she was going to Gurudwara, the accused-Bhopinder Singh (Petitioner herein), along with co-accused,

mounted a murderous attack on his son, who was standing outside the Gurudwara, Phinder, and, in this process, the accused-Bhopinder Singh shot dead her son.

03. The aforesaid information led to registration of a formal FIR, being FIR No. 40/2017, and on culmination of investigation, a formal charge sheet was laid against the Petitioner and co-accused for the commission of offences punishable under Sections 302/109 RPC and Section 30 of the IA Act.

04. In order to drive the charge home against the accused, the Prosecution has cited as many as 30 witnesses in the witness calendar and, by now, 18 witnesses have been examined, including all the four eyewitnesses, i.e., PW1-Gurdeep Kour, PW2-Daljeet Singh, PW3-Tarandeep Singh and PW4-Balwant Singh, respectively.

05. Formal charges against the Petitioner and co-accused have been drawn up for the commission of offences punishable under Sections 302/34 RPC and 30 IA Act vide Order dated 22 August 2017, whereas, the Petitioner was formally arrested on 08 March 2017, as such, he has been behind bars for over 09 years.

06. The Petitioner has moved similar application for grant of bail before the Trial Court, which came to be rejected vide Order dated 07 May 2024. It is seen that the Trial Court, while rejecting the bail application, has taken note of the stage of the trial and also that only 10 witnesses have been examined so far. Therefore, according to the Trial Court, in absence of the testimonies of remaining witnesses, the Court has not been in a position to come to the conclusion that there is no reasonable ground to believe that the accused has not committed the crime.

07. Now, the Petitioner has approached this Court seeking bail, mainly on the ground that there are contradictions insofar as testimonies of the eyewitnesses are concerned, coupled with the fact that the Petitioner has

been suffering long incarceration and the Prosecution has yet to examine about 12 witnesses out of 30 listed witnesses.

08. Besides making reference to the factual and legal grounds urged in the Petition for enlargement of the Petitioner on bail, Mr A. P. Singh, the learned Counsel for the Petitioner, vehemently argued that the Petitioner is languishing in jail for more than nine years and there are glaring contradictions in the testimonies of all the four eyewitnesses, rendering the Prosecution story and the involvement of the Petitioner highly doubtful. Therefore, he prays for the enlargement of the Petitioner on bail on twin grounds of long incarceration and contradictions in the testimonies of eye witnesses. Reliance is also placed on the Judgment titled '**Anoop Singh v. UT of J&K**' passed in Petition for Special Leave to Appeal (Crl) No. 1398 of 2026 by the Hon'ble Supreme Court.

09. On the other hand, despite numerous opportunities have been granted to the Respondent-UT, Objections have not been filed. However, Mr Pawan Dev Singh, the learned Deputy Advocate General, appearing for the Respondent-UT, submitted that there is no delay on the part of the Prosecution in examining the witnesses and that keeping in view the heinousness of the crime, the Petitioner does not deserve the concession of bail at this stage. Therefore, he prayed for dismissal of the Petition.

10. Heard learned Counsel for the parties and perused the record.

11. Precisely stated, the Prosecution case is that on 07 March 2017, the accused-Bhopinder Singh (Petitioner herein), accompanied by co-accused Pardeep Singh, shot dead the deceased-Karamjeet Singh at around 6:15 PM near Gurudwara Phinder in the wake of old enmity and was thus made to face trial for the commission of the aforementioned offences.

12. Admittedly, the Petitioner is behind bars over nine years. On scanning the Challan, it is seen that out of 30 listed Prosecution witnesses, PWs 1 to 4 are cited as eyewitnesses, including PW1-Gurdeep Kour, who is

none other than the mother of the deceased. PW1-Gurdeep Kour has deposed that the accused-Bhopinder Singh fired a gunshot at the deceased, who was standing outside the Gurudwara, while accompanied by co-accused and further deposed that PW2-Daljeet Singh, PW3-Tarandeep Singh and PW4-Balwant Singh were also present on the spot. At the same time, PW3-Tarandeep Singh, in his cross-examination, deposed that PW4-Balwant Singh has come on the spot 10 minutes after the occurrence and further deposed that when the deceased was shot at, he was standing at a *Pulli*.

13. PW4-Balwant Singh has a different story to narrate, in that, he deposed that the accused-Bhopinder Singh had fired at deceased by hiding behind an Alto car, but this fact is missing in his statement recorded under Section 164-A Cr.P.C.

14. In the testimonies of the eyewitnesses, *prima facie*, there appears to be some discrepancy insofar as the manner and mode of alleged occurrence is concerned.

15. In '**Javed Gulam Nabi Shaikh v. State of Maharashtra & Anr., (2024) 9 SCC 813**', the Hon'ble Supreme Court, while granting bail, held as follows:

"17. 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."

16. There is another very important aspect of the matter that, by now, it has been over 09 years that the Petitioner is behind bars and the Prosecution has yet to examine 12 witnesses, which may take some time and, therefore, such long incarceration, when pitted against the 'Right to Liberty' enshrined under Article 21 of the Constitution, clearly tilts the balance in favour of grant of liberty.

17. While considering the application for bail, the Court is required to satisfy itself about the existence or otherwise of a *prima facie* case and a detailed examination of evidence recorded during trial is to be avoided.

18. For the limited purpose of present proceedings, the testimonies of eyewitnesses have been taken note of and, on a cursory look, there appears to be contradictions insofar as the manner of occurrence as well as presence of accused is concerned. Therefore, considering the significant delay in trial, the Petitioner's long period of incarceration and *prima facie* contradictions in the testimonies of eyewitnesses as to the manner of assault as well as presence of the Petitioner at the time of incidence, cumulatively all these factors mandate the grant of bail so as to prevent the violation of right of speedy trial as envisaged under Article 21 of the Constitution.

19. For the foregoing reasons, the present Petition is **allowed** and the Petitioner is admitted to bail subject, however, on the following terms and conditions that:

- i. He shall furnish a surety bond in the amount of Rs. 1.00 lac to the satisfaction of learned Trial Court and a bond of personal recognizance of the like amount to the satisfaction of Superintendent of concerned jail;
- ii. He shall appear before the Trial Court on each and every date of hearing;
- iii. He shall not directly or indirectly make any attempt to coerce or influence the Prosecution witnesses or tamper with the Prosecution evidence; and
- iv. He shall not leave the territorial jurisdiction of the Trial Court without the prior permission of the Trial Court.

20. It is, however, made clear that the observations made in this Order hereinabove shall not be construed as an expression of opinion with

regard to the merits of the trial and that the same shall be confined to disposal of the present bail application only.

21. **Disposed of.**

**(SHAHZAD AZEEM)
JUDGE**

SRINAGAR
April 2nd, 2026
"TAHIR"

i. Whether the Judgment is approved for reporting? **Yes.**

