



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-35929-2024

Date of Decision: August 01, 2024

ANGREJ SINGH ALIAS GAJE

....Petitioner(s)

VERSUS

STATE OF HARYANA

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Dr. Anju Sharma, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J.(ORAL)

1. Relief sought

This petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.234 dated 13.08.2021 under Sections 302, 307, 324 IPC registered at Police Station Sadar District Kaithal.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Brief Facts of the Case: Kamlesh wife of Uday Ram Bali Barta Police Station Sadar Kaithal age 42 years Mob. 8053907518 stated that lam a resident of aforesaid address and do domestic work. I have two Children, elder daughter namely Simran aged around 12 years and younger son is 8 years old and my elder sister namely Krishna wife of Angrej Singh, both are married in the same house in village Barta. My sister Krishna is in the same house with separate 2 rooms. My sister Krishna has three children who study in



government schools, my brother-in-law namely Angrej Singh has been working for several months to set off skin of dead animals in the Nandsinghwalia and is daily drunkard and used to give threats to his wife Krishna and his children for their lives that if they will stop him from drinking liquor. On 12.08.2021 at about 9.00 o'clock Angrej Singh (brother - in-law) came with knife used for setting off the skin of dead animals. When she was sitting outside in the verandah due to summer season and her sister Krishna and her three children were going inside the room and after hearing the noise she reached near their room, while her Angrej Singh was interacting with her sister and her children that who were there for stopping him for drinking liquor. Thereafter, Angrej Singh stabbed her sister Krishna so many times and to rescue her sister, her nephews namely Deepak and Goldy rushed at the spot and who were also stabbed by him with the knife. Due to which my sister fell down in the same room and my two nephews fell on the cot. But her niece while screaming ran away to the street. On seeing her, I too started making noise. Hearing my noise, our neighbours Samander son of Ishwar Sanjay son of Shamsher and Amit son of Gulzari reached at the spot and on seeing them Angrej fled away from there with knife. My Neighbour Samander picked up my sister Krishna who had fell down in the room and laid her down on the cot in the courtyard. I saw that my sister died due to serious injuries inflicted to her by knife. She died due to diabetes and her serious condition. One Sanjay and Amit got admitted her and both nephews in the government Hospital for treatment. My brother-in-law Angrej Singh, out of anger has killed my sister Krishna by stabbing her with knife and tried to kill my nephews Deepak and Gildy by stabbing them as well with knife as they were stopping him from drinking liquor. Legal



action be taken. I have got written my statement, heard it and understood it, which is correct as per what I stated.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the instant FIR only on the basis of suspicion. Complainant was shown as eye witness whereas he was not present at the time of alleged occurrence. No incriminating material is available to prove the guilt of the petitioner wherein he is in custody since 13.08.2021.

On behalf of the State

On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition on the ground that he has committed murder of his wife.

4. **Analysis**

From the above case it can be culled out that the role attributed to the petitioner is that he has committed murder of his wife-Krishna and also stabbed his sons namely Deepak & Goldy with the knife, the said fact has been controverted by the learned counsel for the petitioner stating that nothing has been recovered from his conscious possession, moreso, the petitioner is behind the bars for last 02 years, 11 months and 18 days; charges have been framed on 20.12.2021 and out of total 25 prosecution witnesses, only 04 witnesses have been examined till date, which is suffice enough for this Court to infer that the conclusion of trial will take a long



time for which the petitioner cannot be detained behind the bars for an indefinite period.

Reliance can be made upon the judgment of the Apex Court rendered in “*Dataram versus State of Uttar Pradesh and another*”, 2018(2) *R.C.R. (Criminal) 131*, wherein it has been held that the grant of bail is a general rule and putting persons in jail or in prison or in correction home is an exception. Relevant paras of the said judgment is reproduced as under:-

“2. 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.

3. 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.

4. While so introspecting, among the factors that need to be considered is whether the accused was arrested during investigations when that person perhaps has the best opportunity to tamper with the evidence or influence witnesses. If the investigating officer does not find it necessary to arrest an accused person during investigations, a strong case should be made out for placing that person in judicial custody after a charge sheet is filed. Similarly, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Surely, if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimised, it would be a factor that a judge would need to consider in an appropriate case. It is also necessary for the judge to consider whether the accused is a first-time offender or has been accused of other offences and if so, the nature of such offences and his or her general conduct. The poverty or the deemed indigent status of an accused is also an extremely important factor and even Parliament has taken notice of it by incorporating an Explanation to section 436 of the Code of Criminal Procedure, 1973. An equally soft approach to incarceration has been taken by Parliament by inserting section 436A in the Code of Criminal Procedure, 1973.

5. To put it shortly, a humane attitude is required to be adopted by a judge, while dealing with an application for remanding a suspect or an accused person to police custody or judicial custody. There are several reasons for



this including maintaining the dignity of an accused person, howsoever poor that person might be, the requirements of Article 21 of the Constitution and the fact that there is enormous overcrowding in prisons, leading to social and other problems as noticed by this Court in In Re-Inhuman Conditions in 1382 Prisons, 2017(4) RCR (Criminal) 416: 2017(5) Recent Apex Judgments (R.A.J.) 408 : (2017) 10 SCC 658

6. The historical background of the provision for bail has been elaborately and lucidly explained in a recent decision delivered in Nikesh Tara chand Shah v. Union of India, 2017 (13) SCALE 609 going back to the days of the Magna Carta. In that decision, reference was made to Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 in which it is observed that it was held way back in Nagendra v. King-Emperor, AIR 1924 Calcutta 476 that bail is not to be withheld as a punishment. Reference was also made to Emperor v. Hutchinson, AIR 1931 Allahabad 356 wherein it was observed that grant of bail is the rule and refusal is the exception. The provision for bail is therefore age-old and the liberal interpretation to the provision for bail is almost a century old, going back to colonial days.

7. However, we should not be understood to mean that bail should be granted in every case. The grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously and in a humane manner and compassionately. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.”



Even further, right to speedy trial is a part of reasonable, fair and just procedure guaranteed under Article 21. This constitutional right cannot be denied to the accused as is the mandate of the Apex court in “Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna”, (1980) 1 SCC 98; wherein it was held as under:

*“10. Directions given by this Court in Hussainara Khatoon (supra) to this effect were left to be implemented by the High Courts **Hussainara Khatoon and ors. (VII) etc. v. Home Secretary, Bihar and ors. etc. -(1995) 5 SCC 326 - para 2** are as follows :*

"2. Since this Court has already laid down the guidelines by orders passed from time to time in this writ petition and in subsequent orders passed in different cases since then, we do not consider it necessary to restate the guidelines periodically because the enforcement of the guidelines by the subordinate courts functioning in different States should now be the responsibility of the different High Courts to which they are subordinate. General orders for release of undertrials without reference to specific fact-situations in different cases may prove to be hazardous. While there can be no doubt that undertrial prisoners should not languish in jails on account of refusal to enlarge them on bail for want of their capacity to furnish bail with monetary obligations, these are matters which have to be dealt with on case-to-case basis keeping in mind the guidelines laid down by this Court in the orders passed in this writ petition and in subsequent cases from time to time. Sympathy for the undertrials who are in jail for long terms on account of the pendency of cases has to be balanced having regard to the impact of crime, more particularly, serious crime, on society and these considerations have to be weighed having regard to the fact-situations in pending cases. While there can be no doubt that trials of those accused of crimes should be disposed of as early as possible, general orders in regard to judge strength of subordinate judiciary in each State must be attended to, and its functioning overseen, by the High Court of the State concerned. We share the sympathetic concern of the



learned counsel for the petitioners that undertrials should not languish in jails for long spells merely on account of their inability to meet monetary obligations. We are, however, of the view that such monitoring can be done more effectively by the High Courts since it would be easy for that Court to collect and collate the statistical information in that behalf, apply the broad guidelines already issued and deal with the situation as it emerges from the status reports presented to it. The role of the High Court is to ensure that the guidelines issued by this Court are implemented in letter and spirit. We think it would suffice if we request the Chief Justices of the High Courts to undertake a review of such cases in their States and give appropriate directions where needed to ensure proper and effective implementation of the guidelines. Instead of repeating the general directions already issued, it would be sufficient to remind the High Courts to ensure expeditious disposal of cases...."

(emphasis added)

6. Moreover Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in “***Abdul Rehman Antulay and others v. R.S. Nayak and another***”, 1992(2) RCR (Criminal) 634 observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial. And court also observed that the Right to Speedy Trial from the point of view of the accused are:

I. The period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;



II. The worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and

III. Undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.

5. **DECISION:**

In view of the discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

In the afore-said terms, the present petition is hereby allowed.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

01.08.2024
Sangeeta

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