



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

219

CRM-M-49753-2024

DATE OF DECISION: 16.10.2024

INDERJIT SINGH ALIAS NIKKA

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P.S. Sekhon, Advocate for the petitioner(s).

Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)1. Relief Sought

The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked seeking the concession of regular bail for the petitioner in FIR No.103 dated 15.07.2023, under Sections 307, 326, 324, 323, 506 IPC, registered at Police Station Barnala, District Barnala.

2. Prosecution story set up in the present case as per the version in the FIR read as under :-

‘Copy of statement, "Declaration Nikki Kaur wife Dyala Singh resident Baba Jeevan Singh Nagar Hadiyaya age about 44 years mobile number 90412-38115, stated that I am a resident of the said address. I am doing housework. I have four children. Out of them, two are boys and two are girls. The elder girl Gagandeep Kaur is about 27 years old who is a plain old woman, the younger boy Gurpreet Singh is about 23 years old, the younger girl is Amandeep Kaur about 22 years old and the youngest boy Dilpreet Singh is about 20 years old. On 14.07.2023 at around half past eight in the evening, I along with my daughter Amandeep



Kaurland my sister in lawParamjit Kaur went to offer obeisance at the Mata Rani Temple built in our neighborhood. After reaching the temple me and my sister-in-lawstood in the temple and my daughter Amandeep Kaur was bowing down in the temple. Then the boy of our village, Inderjit Singh alias Nika son of Sohan Singh resident of Baba Jeevan Singh Nagar, Handiaya, suddenly came to the temple with a sharp iron spade in his hand who while my sister-in- lawParamjit Kaur and I were watching, held an iron spade in his hand and directly hit my daughter Amandeep Kaur on the head with the intention of killing her while she was bowing down in the temple. So, my daughter Amandeep Kaur put both her hands on her head to save herself. So Inderjit Singh, while stopping us, again hit the iron spade held in his hand directly on the head of my daughter Amandeep Kaur, which hit on the fingers of both hands of my daughter. With which the fingers of both hands of my daughter Amandeep Kaur were cut off and the tips of the hands were cut with an iron spade and fell apart from the hands in the temple itself. So, we raised a loud noise and hearing our noise, the people around gathered and Inderjit Singh threatened us and fled away from the spot along with iron spade in his hand. Then I and my sister-in-law Paramjit Kaur saved our lives by entering the house of Nazam Singh MC along with my daughter Amandeep Kaur. Where our neighbor Sukhpal Singh had arranged for a private vehicle to admit my daughter Amandeep Kaur to the Government Hospital Barnala. Doctor Sahib referred my daughter Amandeep Kaur to Government Hospital Faridkot as she was more serious. So we took my daughter to the Government Hospital Faridkot late at night and there the doctor referred my daughter to PGI Chandigarh as her condition was more serious. Where now my daughter is undergoing treatment. The grudge behind this is that Inderjit Singh used to stop my daughter when she was passing and tells her to talk with himHe used to stop me on the way and say that you talk to me and I will marry you is So my daughter Amandeep Kaur used to stop him from doing this. Due to which Inderjit Singh has seriously injured my daughter Amandeep Kaur



with the intention of killing her. Strict legal action should be taken against him. Today I along with my boy Dilpreet Singh was going to PGI Chandigarh to meet my daughter and you have met me at the Standard Chowk, Handiaya. I have got recorded the statement which is correct. LTI/ Nikki Kaur.'

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case and no offence under Section 307 IPC is made out against the present petitioner as none of the injuries sustained by the injured has been declared as dangerous in nature. He has argued that the antecedents of the petitioner are clean and he is in custody since 15.07.2023. He submits that no fruitful purpose would be served by keeping the petitioner behind the bars as conclusion of trial would take long time as out of total 21 Prosecution Witnesses, none has been examined so far.

On behalf of the State

On the other hand, learned State Counsel appearing on advance notice, accepts notice on behalf of respondent-State and has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for 1 year, 2 months and 28 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail on the ground that the injuries No. 2 and 3 alleged to be grievous in nature and two fingers from the hand of the victim have been amputated but is not in a position to controvert the submissions made by counsel for the petitioner. He



informs the Court that in the present FIR challan stands presented on 10.10.2023 and charges are yet not framed.

4. Analysis

From the above case it can be culled out that the petitioner has already suffered sufficient period in custody i.e. 1 year, 2 months and 28 days, learned State Counsel could not explain the delay as to why out of the cited 21 PWs, none has been examined so far since the filing of the challan on 10.10.2023 i.e. one year back and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt. Hence, the above facts are sufficient for this Court to infer that the conclusion of trial is likely to take considerable time and detaining the petitioner behind the bars for an indefinite period would solve no purpose.

Reliance can be placed 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.”*

Therefore, to elucidate further, this Court is conscious of the 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 is the mandate of the Apex court in “*Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna*”, (1980) 1 SCC 98. Besides this, reference can be drawn upon that pre-conviction period of the under-trials should be as short as possible keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

5. Decision:

In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail under Section 439 Cr.P.C. on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

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

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

16.10.2024
anuradha

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