



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-54381-2024  
DECIDED ON: 07.11.2024

SANDEEP SINGH ALIAS SUNNY .....PETITIONER

VERSUS

STATE OF PUNJAB .....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gursimran S. Bawa, Advocate for the petitioner.  
Mr. Jasjit Singh Rattu, DAG, Punjab.

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SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 483 of BNSS for grant of regular bail to the petitioner in FIR No.316, dated 05.10.2023, under Sections 379-B(2), 34 IPC and Sections 25, 27 of Arms Act, 1959 (Section 120-B IPC added subsequently), registered at Police Station Division B, District Police Commissionerate, Amritsar.

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

*“Statement of Sushil Vig Son of Late Devraj Vig Resident of House No. 32, Street No. 01, 88 Feet Road, Aman Avenue, Majitha Road, Amritsar Aged About 70 Years Mobile Number 98776-97991 stated that I am a resident. of the said address and working at Seth Cas Service(Indian Oil)godown, Kapoor Nagar, near Sultanwind Canal, Amritsar. Every evening I used to*

*deposit the sale money of gas cylinders in my office near Old Wood market, inside Sultanwind Gate, Amritsar. Today on 05.10.2023 at about 3.15 PM I was taking Rs 3,56,000/- to my office situated inside Sultanwind Gate, Amritsar from Kapoor Nagar Godown on my TVS Jupiter scooter bearing no. PB-02-DN-1190 and had kept the aforesaid money beneath the seat(dickey) of my scooter. When I reached near Jain Mandir in the area of Sultanwind Road, three young cut surd persons came on a motorcycle and they waylaid me. One of them took out a pistol from his dub and at pistol point they snatched my TVS Jupiter. One of them got on my Jupiter scooter and the other youth got on his motorcycle and went towards the Sultanwind canal. That in my TVS Jupiter there was sale money amount of Rs 3,56,000/- of Seth Gas Service and the original RC of the scooter and my driving license. That I called my son Anil Kumar at the spot and we were coming to inform you that you have met us. It is requested that legal action should be taken against the three unknown persons who snatched my TVS Jupiter scooter number PB02-DN-1190 and Rs 3,56,000/-. Statement has been recorded, heard and the same is correct. SD/- Sushil Vig Verified Amarjit Singh ASI Police Station B Division Amritsar 05-10-2023 Inquiry Police Today I ASI including ASI Mehar Singh 531 ASI Kishan Singh 711 and HC Navjeet Singh 1/744 were patrolling on the private vehicle in search of bad elements and were present near the drain of Sultanwind Road Amritsar that complainant Sushil Vig along with his son Anil Vig came before me who recorded his statement with the ASI which was written and read to him and explained to him who after checking his statement signed in English below his statement. Which I verified. From the said statement offence under 379-B (2), 34 IPC 25/27/54/59 A ACT IPC*

*is found. Original statement is being sent to the police station through HC Najit Singh 1/744 to register the case. A case should be registered and a case number should be allotted. A special report should be sent to the service of the Hon'blelllaqa Magistrate and other officers. Control room should be informed. At 6:30 PM Sd/- Amarjit Singh ASI Police Station B Division Amritsar.”*

3. **Contentions**

**On behalf of the petitioner**

Learned counsel for the petitioner contends that as per the prosecution story, the petitioner along with other co-accused committed snatching of TVS Jupiter and Rs.3,56,000/- from the complainant on 05.10.2023 at gun point. He further contends that the petitioner was not named in the FIR but was subsequently nominated as an accused along with other co-accused Maninder Singh @ Goldy and Sukhdeep Singh @ Deepu on the basis of alleged secret information. It has been contended that the petitioner is a man of clean antecedents as he is not involved in any other case.

**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 the petitioner along with other co-accused committed snatching of TVS Jupiter and Rs.3,56,000/- from the complainant on 05.10.2023 at gun point.

4. **Analysis**

Be that as it may, considering the custody period i.e. 01 year and 20 days for which the petitioner has suffered incarceration; the petitioner

is a man of clean antecedents as he is not involved in any other case, as is evident from custody certificate produced today in Court in addition to the fact that investigation is complete, challan stands presented to Court on 08.01.2024, charges are yet to be framed and total cited prosecution witnesses are 22, which is suffice 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 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 basic and 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 discussions made hereinabove, the petitioner is hereby 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

07.11.2024  
Poonam Negi

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