

2024:PHHC:167187



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

216 CRM-M-61793-2024
DATE OF DECISION: 13.12.2024

DILBAG ...PETITIONER

Versus

STATE OF HARYANA ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Mehak Sawhney, Advocate
for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

This petition has been filed under Section 483 BNSS (The Bharatiya Nagarik Suraksha Sanhita 2023) for grant of regular bail to the petitioner in FIR no. 95 (Annexure P-1) dated 22.01.2022 under Sections 420, 467, 468, 471, 477, 120-B of Indian Penal Code 1860, registered at Police Station Barwala, District Hisar.

2. Brief facts of the case reads as under:-

“The case of the prosecution is that Transport Commissioner, Haryana, Chandigarh sent a complaint to police revealing therein that they detected a fraud regarding re- registration of the vehicle with manipulation of chasis number at the tire of entry of data in VAHAN portal in the office of SDM-cum- Registering Authority, Jagadhari. Accordingly, FIR no.. 14 dated 21.1.2021 at P.S.Sector-17 HUDA and FIR No.28 dated 01.02.2021 P.S. Bilaspur District Yamuna Nagar were got registered and the matter was under investigation. The Transport Department Haryana initiated

exercise to identify cases of suspected fraudulent re-registration of vehicles with a similar modus operandi in other RTA/RA/RAS Offices and prepared a list. During this exercise, similar fraud was surfaced in the office of RLA, Hisar, Hansi, Barwala, Narnaund and RTA Hisar. The matter was still under investigation and with this information, he prayed to take legal action against the culprits. Alongwith the application, they appended the list of vehicles regarding which the fraud at the time of re-registration was committed. 3. Acting on this application, FIR under Sections 420 was registered. Inspector Sukhjeet Singh, SHO P.S.Barwala, SI Ramesh Kumar P.S.Barwala and Inspector Raj Kumar P.S.Barwala conducted the investigation. During investigation, Form No.24 of different Registration Authorities was sought. However, record could not be collected vide letter No.5108-07 dated 17.1.2023. The investigation of the case was transferred to economic cell. Inspector Lalit Kumar began the investigation. During investigation, it was discovered that NOCs of the vehicles mentioned in the list were got issued from Palwal, Siwani, Guhla, Jagadhari, Hisar, Jind, Chennai, Gurgaon, Tohana, Hansi, Bahadurgarh, Fatehabad, Sirsa, Narwana, Dadri, Bhiwani, Rewari, Chandigarh, Sonapat, Kharkoda, Beri, Rohtak, Gohana, Uchana and Bilaspur. Accordingly, notices were served upon the Registration Authorities. In pursuant to the notice, Form No.24 were received from Sirsa, Narwana, Hisar, Tohana, Gurgaon, Jind, Bahadurgarh, Badli, Narnaul, Beri, Faridabad, Palwal, Sivani, Hansi, Guhla, Rewari. However, complete record was not collected. Thereafter, notices were again issued to the concerned authorities as the record was not collected. Pawan Kumar, Motor Registration Cierk of the office of SDM-Cum-Registratien Authority Barvala was joined in the investigation. He presented a copy of the order of the Transport Commissioner Haryana Chandigarh regarding destroying of the three years old record. During this investigation, accused Dilbag was arrested who used to work as car dealer at Kaithal. During investigation, it was discovered that he purchased vehicle No.MH14FC-3124 from Maharashtra and got the same registered with Guhla Authority in the name of Balkar son of Jeet Singh after appending fake documents. Thereafter, he got the NOC issued from Guhla and further sold the same to Sunil Sharma. Similarly another vehicle bearing No.MH12B/3108 was got registered for personal use from taxi number to private number at Guhla Authority in the name of Ram Niwas and thereafter, he got issued the NOC and sold the vehicle to Rajpa!. In forn No.24 of vehicle HR09F/7073, mobile No.90538-60001 and of vehicle No. HR09F/4201, Mobile No. 98132-26909 were found mentioned. The CAFs of mobile numbers were obtained. The mobile No. 90538-60001 was

found to be of Anil Sharma MRC and Mobile No. 98132-26909 was found to be of Dilbag Singh. Both the accused in collusion with each other re-registered the vehicle by putting an extra asterisk in the chasis number of the vehicle. After completion of investigation, challan was filed in the Court.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present and no role whatsoever has been attributed to him. It is further submitted on behalf of the petitioner that as per the disclosure statement of Anil Sharma, Clerk of SDM Office, he has admitted that he has committed the said offence in connivance with Praveen Sharma.

On behalf of the State

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the present petition, though could not produce any incriminating material to connect the present petition with the commissioning of offence.

4. **Analysis**

Considering the aforesaid submissions that the petitioner has already suffered sufficient incarceration i.e. 6 months and 14 days, who is not involved in any other case, as is evident from the custody certificate, nothing has been recovered from the petitioner and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt, whereas in the instant case, challan stands presented on 20.08.2023 and charges stands framed on 28.05.2024, and out of total 23 prosecution witnesses only 5 have been examined, which is sufficient for this Court to infer that the conclusion of

trial is likely to take considerable time and therefore, 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 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

13.12.2024
Meenu

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No