



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-62379-2024  
DECIDED ON: 17.12.2024

JANG SINGH .....PETITIONER

VERSUS

STATE OF PUNJAB .....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Salil Dev Singh Bali, Advocate for the petitioner.  
Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked for the second time under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in FIR No.07, dated 15.01.2023, under Sections 302, 341, 323, 148, 149 IPC (Sections 193, 194 IPC added later on) (Section 201 IPC added later on vide GD No.22, dated 12.03.2024) registered at Police Station Arniwala, District Fazilka.

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

*“Statement of Baldev Singh son of Balwant Singh r/O Village Shahpura aged about 33 years 9814168965 stated that I am resident of aforementioned address and do agriculture work. We have a ongoing dispute regarding water course in our land with Chinderpal Singh s/o Jang Singh etc. since 2022. Regarding this there is a case pending in Canal Department which was decided in our*

*favour and is pending decision for 17.01.2023. Today at 2 PM I along with my Chacha Balveer Singh So Hardit Singh were going to our fields for supervision and when we reached near the pakki sadak which goes to our fields then over there Chinderpal @ Chindi S/o Jang Singh having Kuhara, Kuldeep Singh S/o Gurcharan Singh having Kappa, Bant Singh S/o Gurcharan Singh having Kuhara, Harbans Singh S/o Amar Singh having iron rod and Pritam Kaur W/o Jang Singh having iron rod were standing. Immediately on seeing us stopped us and said today they have to be taught a lesson for instituting a case against us in Canal Department. On this Chinderpal Singh gave a lalkara and gave a blow of Kuhara on my chacha Balveer Singh which hit him above his nose on his forehead. Thereafter, Kuldip Singh from the reverse side of Kappa gave a blow to me which hit me above my forehead on my head. Thereafter Bant Singh with reverse side of Kuhara gave a blow to my chacha which hit him on his head. Thereafter Harbans Singh gave an iron rod blow to me which hit me above my left thigh. Thereafter Pritam Kaur gave an iron rod blow on my chacha Balveer Singh which hit him on his head. On this my chacha Balveer Singh fell down and I raised rola loudly and on this after hearing our noise my nephew Pritpal Singh S/o Jaipal Singh and Chinderpal Singh S/o Jaipal Singh also came on the spot and tried to get us separated from them. On this Jang Singh S/o Amar Singh having iron rod, Gurjit Kaur W/o Bant Singh having Dasta, Paramjit Singh S/o Pyara Singh having Dang, Pyara Singh S/o Jai Singh having Dasta, Surinder Singh S/o Sitti S/o Pyara Singh having Dang residents of Shahpura, Satnam Singh a Kali S/o Prem Singh having Dang, Mangat Singh @ Mangi S/o Mahender Singh having Danda R/o Dani Chirag and two unidentified persons*

*who were already in the Dani Chirag came running towards us and on this Jang Singh with his rod gave a blow to my nephew Pritpal Singh S/o Jaipal Singh which hit him on his right Gut. Thereafter, Gurjit Kaur gave a Dasta blow on Pritpal Singh which hit him on his right elbow, thereafter Paramjit Singh gave a Dang blow which hit my nephew Chinderpal on his head in the middle. Pyara Singh gave a Dasta blow on my nephew Pritpal which hit him on his left shoulder. My nephew Pritpal Singh and Chinderpal Singh fell down. On this Satnam Singh gave a dang blow on Pritpal Singh which hit him above his left eye and he fainted. Thereafter Surinder Singh @ Sitti gave a Dang blow to Chinderpal which hit him on his left arm wrist. I also fell down and since we all had fallen down then Mangat Singh and other aforementioned accused started giving injuries with their weapons to me and my Chacha Balveer Singh. On hearing noise many people gathered and on seeing this all the accused along with their respective weapon ran away from the spot. Thereafter my Bhanja Gurwinder Singh s/o Jasvir Singh arranged vehicle and when we were being brought to Fazilka for treatment and when we reached near the pool then my chacha Balveer Singh died. We reached Civil Hospital Fazilka where the doctors declared my chacha Balveer Singh to be dead we were admitted for treatment where doctor took a statement.”*

### 3. Contentions

#### On behalf of the petitioner

Learned counsel for the petitioner contends that as per the prosecution story, the injury attributed to the petitioner is with rod on the right wrist of Pritpal Singh, which is on the non-vital part. He further

contends that the complainant party was the aggressor and attacked the co-accused Harbans Singh while he was working in his fields. It has been contended on behalf of the petitioner that he is a man of clean antecedents as he is not involved in any other case.

It has been further asserted that co-accused Harbans Singh has been granted the concession of regular bail by this Court vide order dated 01.02.2024 (Annexure P-8) passed in CRM-M-4360-2024.

**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 was a part of unlawful assembly which led to murder of Balvir Singh, who has given rod blow on the right wrist of Pritpal Singh.

4. **Analysis**

Be that as it may, considering the custody period i.e. 09 months and 03 days for which the petitioner has suffered incarceration; the injury attributed to the petitioner is on non-vital part; the petitioner is not a habitual offender as he is not involved in any other case, as is evident from custody certificate; co-accused Harbans Singh has been granted the concession of regular bail by this Court vide order dated 01.02.2024 (Annexure P-8) passed in CRM-M-4360-2024 in addition to the fact that investigation is complete, challan stands presented to Court on 06.06.2024, charges are yet to be framed and total 23 prosecution witnesses have been cited, which is suffice for this Court to infer that the conclusion of trial will take 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.

17.12.2024

Poonam Negi

(SANDEEP MOUDGIL)  
JUDGE

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No