



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-479-2025
DECIDED ON: 07.04.2025

NIRMAL SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P.S. Sekhon, 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 under Section 439 Cr.P.C. (483 of the Bharatiya Nagarik Suraksha Sanhita, 2023) for grant of regular bail to the petitioner in case FIR No. 154 dated 05.08.2023 under Section 302, 307, 341, 323, 506, 148, 149, 120-B IPC, P.S. Samana (Sadar Samana) District Patiala.

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

“Contents: - At this time one copy of Rapat No. 22 dated 04.08.2023 Roznamcha, Post Mavi Kalan, regarding statement of Mandeep Singh son of Pritam Singh, Village Shahpur, Tehsil Samana, District Patiala Police Station Sadar Patiala aged about 38 years M. No. 86996-36904 to SI Kuldeep Singh, Inch. Post Mavi Kalan, Police Station Sadar Samana for registration of case against Randhir Singh son of

Gurnalb Singh, Gurnaib Singh son of Mukhtiar Singh, Labh Singh son of Mohar Singh, Gurdeep Singh son of Labh Singh, Nirmal Singh son of Maghar Singh, Ranbir Singh @ Rana son of Gurjant Singh, Jaspreet Singh son of Rana Singh, residents of Shahpur, Police Sadar Samana, District Patiala under Station sections 307, 341, 323, 506, 148, 149 IPC by hand PHG Balbir Singh 18210/Ptl. received in the Police Station. The contents of the same are, "DDR NO.22 dated 04.08.2023, SI Kuldeep Singh Inch. post mavi Kalan, return L/PHG and recording of statement. Statement Time 7:25 PM. It is recorded that one statement of Mandeep Singh son of Pritam Singh, resident of Shahpur, Sadar Samana, District Patiala aged about 38 years M.No. 86996-36904, "Stated that I am resident of above mentioned address and doing agricultural work and some days ago we had made pickle for animals. At that time Bharouli (Pipe) of canal water was broken from us and then yesterday time would be 5:00 PM the persons mentioned below were already standing with some preparation and started saying to me that you had broken our Bharouli (Pipe) and then I said that my brother Rajinder Singh is coming by taking Bharouli (Pipe) and today we will install the Bharouli (Pipe) then after sometime my brother Rajinder Singh came while taking Bharouli (Pipe) and when he was to lift the same from Rickshaw-Rehri then in the meantime Randhir Singh son of Gurnaib Singh having pistol in his hand, Gurnaib Singh having Gandasa in his hand, Labh Singh having dang in hand, Gurdeep Singh son of Labh Singh having Soti- Fatti (Stick) with nails in hand. Nirmal Singh son of Maghar Singh having takua in his hand, Rana Son of Gurjant Singh having dang in his hand, Jasanpreet Singh son of Rana Singh resident of Shahpur, and then Randhir Singh holding pistol in hand while pointing straightway raised lalkara that today both have been met and earlier they had harassed to our elders and now more to us, should not be spared, then Gurdeep Singh holding a fatti (Stick) wherein nails were affixed, hit on the head of my brother Rajinder Singh, who had fallen on the ground at the spot and thereafter

Nirmal Singh gave takua blow on my head, which hit on my forehead on reverse and by this time Rana attacked with dang which hit on my right shoulder then all of them attacked upon we both brothers blindly with dangs, legs, takua. I raised Maarta-Maarta and tried to flee, but they beaten us by encircling us and in the meantime, many people had gathered, out of which Karam Singh son of Malkeet Singh, Gurdeep Singh son of Gulzar Singh, Shahpur also came. Then while seeing the gathering of said persons along with their weapons fled away from the spot while threatening and in the meantime, our nephew Paramjit Singh came at the spot and then after making arrangement of vehicle we were got admitted in CH Samana, where doctor admitted me and as my brother Rajinder Singh suffered more injuries, he was referred to Rajindra Hospital. As the injury was more and now, I came to know that my brother is admitted in Full Neuro Nabha Road, Patiala and who is unconscious. I had got recorded my statement to you in the presence of my nephew. We have been caused beating with the intention to kill us by rounding us by Randhir Singh son of Gurnaib Singh, Gurnaib Singh son of Mukhtiar Singh, Labh Singh son of Mohar Singh, Gurdeep Singh son of Labh Singh, Nirmal Singh son of Maghar Singh, Rana Singh son of Gurjant Singh, Jasanpreet Singh son of Rana Singh, residents of Shahpur village Sadar Samana, we had danger to our life from them. Action be taken. We have got recorded our statement to you which is head and correct.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that no specific injury has been attributed to the petitioner and sole injury i.e. on the head of the complainant has been attributed to the co-accused Gurdeep Singh. He further contends that there is an inordinate delay of 2 days in registration of instant FIR as the occurrence took place on 03.08.2023 whereas the FIR was

registered on 05.08.2023. It has been contended on behalf of the petitioner that he is in custody since 12.08.2023, challan stands presented to Court on 09.11.2023 and charges have been framed on 26.03.2025 after the investigation is complete. It has been asserted that the petitioner is not a habitual offender 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 his co-accused persons had caused serious injuries to the complainant Mandeep Singh and deceased Rajinder Singh.

4. **Analysis**

Be that as it may, considering the custody period i.e. 01 year, 07 months and 19 days for which the petitioner has suffered incarceration; no specific injury has been attributed to the petitioner and sole injury i.e. on the head of the complainant has been attributed to the co-accused Gurdeep Singh; there is an inordinate delay of 2 days in registration of instant FIR as the occurrence took place on 03.08.2023 whereas the FIR was registered on 05.08.2023 and the fact that the petitioner is not a habitual offender as he is not involved in any other case, as is evident from custody certificate.

Also considering the fact that investigation is complete, challan stands presented to Court on 09.11.2023, charges have been framed on 26.03.2025 and out of total 35 prosecution witnesses none has been examined so far, 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. **RELIEF:**

In view of the discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on him 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.

07.04.2025

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No