



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

221

CRM-M-775-2025
DATE OF DECISION: 20.03.2025

AMANDEEP SINGH @ AMANI ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

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

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. **Prayer**

This petition has been filed under Section 439 Cr.P.C. (483 of the BNSS, 2023) seeking the concession of regular bail for the petitioner in FIR No.41 dated 27.04.2023 under Sections 307, 325, 323 IPC (Section 302 IPC added later on and offence under Section 308 IPC deleted) registered at Police Station Dirba, District Sangrur.

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

‘Copy of Statement: Statement of Gejo Kaur wife of Amarjit Singh alias Dugri, son of Jagga Singh, resident of Village Harigarh, P.S. Dirbha, District Sangrur, aged about 55 years. Mobile NO. 9592143819, 9877002140. Stated that I am a resident of the above mentioned address. I work as a laborer. I



have a son Nasib Singh age about 28 years and a daughter namely Sukhvir Kaur. My daughter Sukhvir Kaur got married to Gopi Singh resident of Ubhiya 3/4 years ago by his own will. My son got married about 07 years ago with Sarabjit Kaur daughter of Bhola Singh resident of Alisher Police station Lehra. My son has 02 children namely Jagdeep Singh age 05 years elder Son and a daughter namely Jaspreet Kaur age about 3% years. My daughter-in-law Sarabjit Kaur died 3 years ago due to electrocution. Now we have built our new house. In front of our house in our neighborhood, there is the house of Gurdeep Singh son of my Jeth Kaka Singh, whose daughter Manpreet Kaur had marriage today. Yesterday on 25.04.2023 celebration in evening due to the of the wedding, Gurdeep Singh had set up a DJ in the street in front of the house on the evening. So our neighbor Amandeep Singh alias Amna son of Gulab Singh, resident of Harigarh, who had drunk Alcohol, he was dancing in the DJ while making noises/roula. On this Gurdeep Singh was stopping the DJ to stop him, who was repeatedly putting pressure to play the DJ, due to which the person in authority of DJ stopped the DJ and kept the DJ's equipment at our house. Due to which Amandeep Singh alias Amna started shouting in the street in front of my house, then it was around 11:00 o'clock in the night that Amandeep Singh brought Dasta wood of Kassi from his house and came in front of our gate while using abusive language. Upon this my son Nasib Singh, me and Hardeep Singh alias Deep son of Jogi Singh resident of Harigarh and relatives other tried to make understand him but Amandeep Singh alias Amna, while abusing my son Nasib Singh, held the said stick/dassta of kassi in his hand with the intention of killing my son and hit my son Nasib Singh on the left side of the head, along with it, he started to try hitting my son Nasib Singh on his face, which hit on the left side of the nose and on the left eye of my son. Then again he started hitting my son Nasib Singh on the head with the help of stick/dasta of Kassi, while stopping this it



hit son my Nasib Singh's right hand. My son fell down unconscious due to the head injury, I shouted Marta Marta. Meanwhile, the relatives gathered at the wedding and many people of the village gathered there.. Seeing the people gathered, Amandeep Singh fled away from the occurrence place alongwith his weapon. Time had passed, and then I and my son's friend Rahul alias Guri son of Kala Singh, resident of Harigarh, arranged a vehicle and admitted my son Naseeb Singh to the government hospital in Sangrur, who gave first aid and due to number of injuries, today they referred to Rajindra Hospital Patiala for better treatment. But we brought my son Nasib Singh to PGI Chandigarh and admitted him there, where my son Nasib Singh is undergoing treatment. He is still not conscious and is not walking and speaking. The enmity behind this is that with whom my daughter got run away Gopi Singh resident of Ubhiyan, he is a friend of above said Amandeep Singh, he is daily visitor, due to which Amandeep Singh is less friendly with my son. That night in the marriage he gave injuries to my son Naseeb Singh with the intention to kill. Necessary legal action should be taken against above said Amandeep Singh. The statement has been recorded, heard and found correct. RTI Deponent Gejo Kaur, verified by Sd/-Hardip Singh Deep son of Jogi Singh, resident of Harigarh, aged around 25 years, mobile No.9804090800."

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. He submits that the deceased expired after seven months from the date of occurrence which took place on 25.05.2023 whereas he died on 20.11.2023. Counsel for the petitioner further seek indulgence to the fact that no specific role



has been attributed to the petitioner nor any offence under Section 302 IPC is made out, therefore, prays for grant of regular bail to the petitioner.

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, 9 months and 19 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the petitioner is involved in one more FIR, meaning thereby he is a habitual offender. He has referred to the cause of death as detailed in paragraph No. 8 of the status report dated 11.02.2025 filed by the state Counsel. He has made an attempt to explain the cause of death, resulting because of the injuries suffered in the instant occurrence wherein inappropriate supply of blood resulted in the failure of kidney and accordingly column No.2 the antecedent caused acute tubular necrosis.

4. Analysis

Be that as it may, having gone through the record and reply filed by the State wherein item No.1 immediate cause of death has been typed as respiratory failure and the fact that death took place after 8 months of the occurrence has not been disputed by the State particularly when the deceased was discharged from the hospital after thorough investigation and treatment on 26.06.2023 and remained as such fit till the date of death.

After having given a thoughtful consideration to the facts and circumstances of the case as has been unfolded before this Court



during the course of hearing and the custody part i.e. 1 year, 9 months and 19 days incarcerated by the petitioner along with the fact that out of 38 PWs, 7 PWs have been examined, 8 PWs have given up so far 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.

As far as the pendency of other cases and involvement of



the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “Baljinder Singh alias Rock vs. State of Punjab” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of the concession of bail.

5. Relief

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

20.03.2025
anuradha

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