



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

254

CRM-M-1144-2025

DATE OF DECISION: 16.01.2025

SURJIT SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

..... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Inderpal Singh Parmar, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

This petition has been filed under Section 483 of BNSS, 2023 seeking grant of regular bail to the petitioner in a case bearing FIR No. 152, dated 25.10.1996, under Sections 279, 337 and 338 of the Indian Penal Code, 1860, registered at Police Station Division No.2, Ludhiana.

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

“Stated that I am resident of above address and am working as line officer electrical engineer at United Cycle Parts Mfrs Assn. Gill Road Ludhiana. On 23.10.1996, I was coming to my duty from home on my scooter No. CHL 3454 and on my way I met Sh. Daljit Singh son of Sh. Harbhajan Singh resident of Street No.4 Nirankari Mohala Ludhiana, who was also on his scooter. When we reached Campa Cola Chowk on our respective scooters, the traffic light was red. We therefore stopped there. That at about 10.00 A.M., when the traffic light turned green, I started my



scooter and then a truck bearing no. PB-04-2008 (LP) came from behind driven with great speed and negligence and without blowing horn struck behind my scooter. Due to this my scooter fell on the side of the road and I came under the truck. Due to this my left ear got detached and I received injuries on arms and body. I and Daljit Singh shouted. The truck driver, after stopping the truck at a distance came to me. On asking he told his name as Surjit Singh son of Mohinder Singh R/o Kot Mohamad Khan. Many persons gathered at the spot and thereafter the driver of the truck fled from there. Daljit Singh and other persons got me admitted at Pahwa Hospital for treatment. The doctors referred me to CMC Hospital and Sh. Daljit Singh got me admitted at CMC Hospital. At present I am under treatment at CMC Hospital. You have recorded my statement, heard it and is correct. Action be taken. Sd/- Kuldeep Singh, Sd/- Gurpreet Singh Attested Sd/- Charanjit Singh ASI IC Millerganj Ludhiana 25.10.1996.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case as FIR pertains to a road accident wherein, offences are triable by the Magistrate and are bailable. It is further contended that the petitioner had continuously appeared before the trial Court till the year 1998 but later on he was declared proclaimed offender vide order dated 29.11.1999. Thereafter, the petitioner got the police clearance certificate dated 29.07.2008. Now he is settled in Portugal and has been residing in Germany for the last many years. In December, 2023, he came to know about the pendency of present FIR against him. The petitioner surrendered before the trial Court on 26.11.2024 after being granted liberty by this Court vide order dated 23.05.2024 and since then he is in custody.

**On behalf of the State**

On the other hand, learned State Counsel appearing on advance notice, has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner has suffered incarceration for a period of one month and 20 days, as of now, who is not involved in any other case of any nature whatsoever.

4. Analysis

Considering the fact that the petitioner has clean antecedents and offences under which he is booked are triable by the Magistrate added with the fact that after framing of charges on 04.01.1997 out of total 16 prosecution witnesses only 4 have been examined 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. as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt.

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. He is further directed to surrender his passport while



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

16.01.2025
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>