



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

238

CRM-M-2697-2025

DATE OF DECISION: 23.01.2025

GAGANPREET SINGH AND ANR

...PETITIONERS

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Munish Behl, Advocate for the petitioner(s).

Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)1. Relief Sought

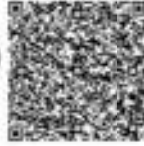
This petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita 2023 (earlier Section 439 of Code of Criminal Procedure-1973) for grant of regular bail to the petitioners in case FIR No.275 dated 18.09.2022 (Annexure P-1) registered under Sections 407, 420 of Indian Penal Code, 1860 (Later Sections 120-B, 467, 468, 471, 485, 411, 201 of IPC 1860 added) at Police Station Saha, District Ambala.

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

*‘Sir, The copy of the application is as under: To, The Station House Officer, Police Station Saha, District Ambala, Haryana.
Subject: Application against (1) Sultan Ram son of Munshi Ram, Driver, (2) Truck owner Wakeel Ram son of Sultan Ram, resident of Ward No. 8, Bilochia, B.L.M. Sri Vijay Nagar, Ganganagar, Rajasthan, Mobile No.82353-62597, 82353-43966, (3) Sri Shyam Logistic, owner Sumit Kumar Sharma, resident of near Dukheri Road, Annapurna Dhaba, Mohra, District Ambala, mobile No.*



99922-39197, 98701-62401, for not delivering the batteries loaded in the truck at the prescribed time and prescribed place and misappropriating the material. Sir, It is requested that I, Surrender Singh son of Sh. Satbir Singh am the resident of Plot No.60, Industrial Area, Panchkula and am posted as Manager in Flying Green Carrier Pvt. Ltd. Company, Ambala. The warehouse of the Livfast Company is situated in Village Landa. On 09.09.2022, our company Flying Green Carrier Pvt. Ltd. had hired a Truck No. RJ-07-GB-3595 from Sri Shyam Logistic from Ambala to Kanpur. In this truck, 435 batteries of Livfast Company were loaded, the invoice number of which is 22-23/1566950469, the bilty number is 111424. On 09.09.2022, the truck No.RJ-07-GB- 3595 of Sri Shyam Logistic had proceeded from Flying Green Carrier Pvt. Ltd. Ambala for Kanpur. In the said vehicle accused No.1 Sultan Ram son of Munshi Ram, resident of Ward No.8 Bilochia, B.L.M. Sri Vijay Nagar, Ganganagar, Rajasthan was the driver. He had proceeded after perfectly loading of the vehicle. He had to reach Livfast Batteries Pvt. Ld. C/o Taneja, RG No.485/503, Rampur Bhimsain, Near Railway Station, Kanpur, Uttar Pradesh 208020, on 12.09.2022. But upon the lapse of many days, our material did not reach the destination. Then I contacted on phone No.8235362597 of the driver, but the phone number of the driver was switched off. Till today, neither the whereabouts of the vehicle nor the material and nor of the driver are known. That I apprehend that Sumit Kumar Sharma in connivance with the driver Sultan Ram and his son Wakeel Ram, have misplaced our material (435 batteries, valuing at Rs. 34,63,093/-) in a deceitful manner. The accused Sultan Ram, Wakeel Ram and Sumit Kumar Sharma have misplaced the material of our company and have misappropriated the same. Legal action be taken against the accused Sultan Ram, Wakeel Ram and Sumit Kumar Sharma and our material may be got recovered. Dated: 18.09.2022. Sd/ Surrender Singh son of Satbir Singh, mobile No.95011-66555....."



3. Contentions

On behalf of the petitioner

Learned counsel for the petitioners has argued that the petitioners have been falsely implicated in the present case they were not named in the instant FIR and had been roped in the instant case. He submits that the petitioners are neither the owner nor the driver of the truck, moreso, they are not the owner of the company through whom the truck was hired by the complainant. He points out that the petitioners are not involved in any other case, meaning thereby they are not habitual offender. He further points out that co-accused namely Simrandeep Singh @ Sunny has already been granted benefit of concession of regular bail by this Court vide order dated 14.1.2025 passed in CRM-M-50550-2024, 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 petitioners, which are taken on record. According to which, the petitioners are behind bars for 5 months and 11 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the petitioners along with co-accused has actively participated in the commissioning of the offence but is not in a position to controvert the submissions made by learned counsel for the petitioners.

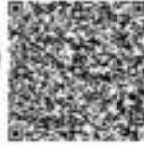


4. Analysis

Be that as it may, from the above discussion, it can be culled out that the petitioners have already suffered sufficient incarceration i.e. 5 months and 11 days each, similarly situated co-accused has already been granted concession of bail by this Court, antecedents of the petitioners are clean, meaning thereby they are not habitual offender, 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 28.10.2024 charges stands framed on 04.01.2025 out of 23 prosecution witnesses, none has 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 petitioners 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:-

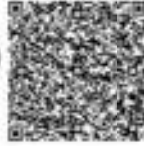
“2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences 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 Nimesh 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 petitioners are directed to be released on regular bail on their 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

23.01.2025
anuradha

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