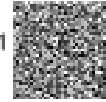


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2025:PHHC:010751



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3214-2025
DECIDED ON: 24.01.2025

DEEPAK ALIAS BAJRANGI ALIAS DEEPAK DAGER
.....PETITIONER

VERSUS

STATE OF HARYANA
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Baljeet Beniwal, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG Haryana

Mr. Vishal Thakur, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 483 BNSS, has been invoked for the grant of regular bail to the petitioner in FIR No. 246, dated 04.08.2024, under Sections 140(4), 127(2), 115(2), 117(2) and 351(3) of BNS, 2023 registered at Police Station Hathin, District Palwal, Haryana.

2. Facts

Facts as narrated in the FIR reads as under:-

“To, SHO, P.S. Hathin, I request that I am Tejvir S/O Mangal Singh resident of Gharrot P.S. Hathin District Palwal. On 03/08/24 at around 8:30 PM I was smoking hookah in my room, Sonu S/O Mamachand, Gajraj S/O Atar Singh, Lekhan S/O Totaram, Shyam S/O Rooplal, Mohan S/O Khachera, Monty S/O Amilal, Anil S/O

Vedprakash and Harkesh S/O Deshraj were all sitting in the room. Then I got a call from number 8950793010, who asked me where are you brother Tejvir, I told him that I am in my sitting room. He said we are standing outside your sitting room, I want to meet you, I drive a taxi, I thought someone has come for taxi booking. And when I came out, a grey coloured Brezza car was parked outside in which five people were sitting. One of them, whose name was Deepak alias Bajrangi, whom I knew, got down and started talking to me. He made me forcefully sit in the car in which Rajendra S/O Devi Ram was also sitting. After hearing my voice, all the people sitting in my came out. During that time, those people made me sit in the car and ran away. They started beating me on the way. As soon as I screamed, Deepak alias Bajrangi put a pistol on my forehead and threatened me that if I screamed, he would shoot me. Rajendra S/O Devi Ram hit me on the head and legs with the butt of the pistol. They got me down from the car somewhere in the jungle on the way and beat me with iron rods and sticks, due to which I got very deep injuries. During that time, they urinated on my face and made me walk naked in the jungle. They kept a pistol on my head and threatened to kill me several times. After that, they again made me sit in their car and took me to a house in Mandkola village. They held me hostage in a house where they took away Rs. 10,000 from my pocket. After some time, Police 112 vehicle arrived and picked me up from there and took me to Government Hospital, Hathin, where I was given a medical checkup. After some time my family members also came to the hospital. I had several injuries. I also had a head injury for which the police handed me over to my family members for CT Scan. I kept getting my injuries treated till now. Now I have come to you to present my complaint against the above mentioned culprits.”

3. Contentions:

On behalf of the petitioner

At the outset, learned counsel for the petitioner submits that the matter has been compromised between the parties on the basis of compromise

deed dated 16.12.2024 (Annexure P-3), with the intervention of the respectable of the society, the complainant does not want to pursue with the matter any further.

On behalf of the State/complainant

Learned counsel appearing on behalf of the complainant admits the factum of compromise dated 16.12.2024 (Annexure P-3) and also endorsed no objection, in case the present petition is allowed and petitioner is admitted on bail.

Learned State counsel filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the present on the ground that the petitioner is a habitual offender, as he is involved in another case, but could not controvert the fact that the parties have already settled the dispute.

4. **Analysis**

Considering the custody period already suffered by the petitioner i.e., of 4 months and 27 days and the matter has already been settled between the parties added with the fact that investigation is complete, challan stands presented on 24.10.2024, charges stands framed on 09.01.2025 and out of total 22 prosecution witnesses none has been examined so far, meaning thereby conclusion of trial shall take considerable time, no useful purpose would be served by keeping the petitioner behind the bars for an indefinite period, which would curtail right of the petitioner for speedy trial and expeditious disposal, as enshrined under Article 21 of the Constitution of India as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***. 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

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.

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 lend the petitioner in a situation of denial the concession of bail.

5. DECISION:

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

24.01.2025

Meenu

(SANDEEP MOUDGIL)
JUDGE

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