



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-4982-2025 (O&M)
DATE OF DECISION: 03.02.2025

GURBJAJAN SINGH ALIAS JIWAN SINGH
...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Amrinder Kaur, Advocate for the petitioner(s).

Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

This petition has been filed under Section 483 BNSS, 2023 for grant of regular bail to the petitioner in FIR No.93 (Annexure P-1) dated 17.06.2022 under Sections 302, 34 IPC 1860 registered at Police Station Sadar Bathinda, District Bathinda.

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

'First Information Contents: Statement of Jaswinder Kaur w/o Teja Singh s/o Malkit Singh r/o Near Majbi Sikha Vali Dharamshala, Village Multaniya, District Bathinda, aged about 45 years, mobile no. 98557-51350. It is stated that I am resident of above mentioned address and I am a house wife. My marriage was solemnized around 25/26 years ago with one Teja Singh s/o Malkit Singh r/o Village Multaniya Distt. Bathinda. They are three brothers, eldest brother namely Chadat Singh has already passed away. Then my husband and younger brother was Balkaur Singh. My younger brother in law was unmarried yet.



He used to have his meal with us. He was a laborer. On 09/06/2022 at about 8.30/9.00 PM my brother-in-law namely Balkaur Singh went from our home on feet to bring curd and milk. When he did not return for some time then we enquired & came to know that my brother-in-law was lying in injured condition at some distance from our home at street going towards shop of Sewak @ Chilli. My grandson namely Gagandeep Singh along with son of my brother in law namely Harwinder Singh arranged a vehicle and took my brother in law namely Balkaur Singh to Civil Hospital Bathinda, where doctor gave first aid and referred him to some other hospital as his condition was serious. Upon which our boys took my brother in law Balkaur Singh to Aruna Hospital, Bhatti Road, Bathinda. They admitted my brother in law for one night and in the morning asked us to take him to Faridkot College. I along with our boys arranged the vehicle and took my brother-in-law to Medical College Faridkot where he had undergone treatment for 7 days. Till date we have no idea how my brother in law namely Balkaur Singh got injuries. Now on 16/06/2022 during treatment my brother in law namely Balkaur Singh is died. Till date we were searching for the persons who gave injuries to Balkaur Singh @ Kaur & now we came to know that Harpreet Singh @ Ghuggi s/o Chandar Singh, Gurbahajan Singh @ Jeeven s/o Amarjeet Singh, Dharampal Singh @ Dharmu s/o Surjit Singh, Manpreet Singh @ Manna s/o Manohar Singh r/o village Multania, District Bathinda had conspired with each other and killed my brother in law Balkaur Singh by giving him injuries. They all are friends. The motive of the crime is that some time ago my son Arashdeep Singh and Harpreet Singh @ Ghuggi had a verbal altercation with each other and Balkaur Singh had scolded Harpreet Singh due to which Harpreet Singh @ Ghuggi had nursed a grudge against my brother in law namely Balkaur Singh and die to which all of them by sharing common intention Physically assaulted him and resulted into his death. Legal action be taken against all of them. Statement has been given to



you & I have read it and found it to be correct. SD/ Jaswinder Kaur. SD/ Harwinder Singh s/o Chadat Singh r/o Multania, Bathinda, witnessed SD/ Bikramjeet Singh SI SHO PS Saddar Bathinda. Dated 17/06/2022.'

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 as the FIR was registered after eight days of the alleged incident. He submits that no specific role has been attributed to the petitioner except that the petitioner along with three other co-accused gave injuries due to which the deceased succumbed. He further submits that the investigation in this case is complete as challan stands presented on 06.09.2022 charges stands framed on 30.09.2022 out of 14 prosecution witnesses, only 6 PWs have been examined after passing of more than two and a half years of filing of the charges which is sufficient to say that conclusion of trial is likely to take considerable time. He has further argued that co-accused-Manpreet Singh @ Manna has already been granted concession of regular bail vide order dated 21.10.2024 passed in CRM-M-50598-2024, moreover, the antecedents of the petitioner are clean, meaning thereby he is not a habitual offender, 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 2 years, 7 months and 11 days.



Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that due to the injuries given by the petitioner and the co-accused the deceased succumbed, but is not in a position to controvert the submissions made by learned counsel for the petitioner.

4. Analysis

Be that as it may, from the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 2 years, 7 months and 11 days, similarly situated co-accused has already been granted concession of bail by this Court, no specific role has been attributed to the petitioner, antecedents of the petitioner are clean, meaning thereby he is not a 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 06.09.2022 charges stands framed on 30.09.2022 out of 14 prosecution witnesses, only 6 PWs have been examined that too after elapsing of more than two and a half year 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.

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.

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

03.02.2025
anuradha

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