



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

241

CRM-M-5355-2025
DATE OF DECISION: 04.02.2025

JOBANJIT SINGH @ JOBAN ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Rishu Mahajan, 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 of BNSS, 2023 for grant of regular bail in FIR No. 194 dated 28.07.2024 under Sections 109, 333, 304, 115(2)(4), 190, 191, 324(4), 324(5) of BNS, 2023 and under Section 25/54 of Arms Act, 1959 registered at P.S. Jandiala, Amritsar.

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

‘Statement of Sawinder Singh son of Aachar Singh resident of Pati Bhadki, Bandala police station Jandiala aged 65 years mobile no. 7710423036. Stated that I am a labourer and resident of above mentioned address. I have 5 children. 2 sons and 3 daughters, eldest is son Yadwinder Singh, younger to him is daughter Kirandeep Kaur, then son Harpreet Singh @ Vicky, then Rekha and youngest is Prabhjot Kaur. My all children are married.



That on 26.04.2024 my daughter Prabhjot Kaur got married with Gurpreet Singh @Gopi son of Sukhjinder Singh @ Bau resident of Sarli police station 'Verowal' District Tarn Taran as per Sikh rites and rituals. That on dated 24.07.2024 at 5.30PM my daughter had come to our village Bandala because 10 days back she was given beating by my son-in-law Gurpreet Singh @ Gopi along with his relatives from village Chattiwind and others. Today on dated 27.07.2024, they had come to take my daughter Prabhjot Kaur back but my daughter Prabhjot Kaur said in front of relatives that she does not want to go to her in-laws village 'Sarli' as they give her beating and this led to verbal altercation between relatives, her in-laws family and my son-in-law Gurpreet Singh but later on, relatives intervened and got the matter settled with condition that they will take my daughter Prabhjot Kaur back on dated 16.08.2024 and they all agreed and left my house. But same night at 10.30 PM, after having my dinner, I was sleeping on the roof of the house, my elder son Yadwinder Singh had gone to his relatives house for some work, whereas, my daughter-in-law Simran Kaur along with her both kids and my son Harpreet Singh were lying in the courtyard in front of cooler/fan. The outer gate of the house was lying open and I heard knocking on the outer door and I saw that my son-in-law Gurpreet Singh armed with kirpan, his brother Lovepreet Singh armed with datter entered our house and in the meantime, my daughter-in-law Simran put on the electric bulb of the courtyard and in the meantime their maternal aunt's (massi) sons namely Happy, Joban, Suraj, Phuman, Bhola and Nika accompanied by 10 unidentified persons residents of Chattiwind who were armed with dangs, sota, and kirpan and my son-in-law Gurpreet Singh and his brother Lovepreet Singh raised lalkara and said that Singh a lesson for falsely accusing us of giving beatings and harassment to his daughter Prabhjot Kaur' and on this lalkara, Happy, Joban, Suraj and Phuman took out pistol from their dub(waist) and with the intention to kill started firing at me but I saved myself by lying on the roof. The persons who accompanied them started ransacking the household articles including cooler and fans with their kirpans and sticks. My son-in-



law Gurpreet Singh, Joban and unidentified persons came on the roof and my son-in-law Gurpreet Singh with the intention to kill gave 2 blows with his kirpan and same hit straight on my head from reverse side of the kirpan, then Lovepreet Singh gave dattar blow from reverse side hitting straight at my left cheek and I got smeared with blood and fell down on the roof. While I was lying down, Lovepreet Singh gave second blow with reverse side of dattar and I raised my left arm and reverse side of dattar hit on my left elbow. I raised hue and cry and on hearing firing noises, other persons who were sleeping on the roof tops of their houses got up and on seeing them accused and unidentified persons gave dang blows while I was lying down on the roof which hit me on my left bicep, left shoulder, waist and on chest and on seeing my condition, accused came down from the roof and after damaging our household articles ran away raising lalkara with their respective weapons. While fleeing away, Gurpreet Singh and Lovepreet Singh snatched mobile phones (Vivo touch) of my daughter-in-law Simran Kaur, my son Harpreet Singh and Prabhjot Kaur and fled away on threats to our life. my daughter-in-law Simran Kaur, my son Harpreet Singh and Prabhjot Kaur had witness this entire occurrence. That above mentioned persons entered my house with the weapons and caused injuries to me with their weapons and also ransacked the house and snatched the phones also. That I, my daughter, my daughter-in-laws and son can identify the unknown person on seeing them. The motive is that my son-in-law Gurpreet Singh and his family used to harass and beat my daughter Prabhjot Kaur and 10 days back, my daughter had come back to my house and with the intention to take my daughter back forcibly, they entered my house with deadly weapons and attacked and injured me. That today morning on 28.07.2024, my daughter-in-law Simran Kaur and son Harpreet Singh after arranging a vehicle took me to Civil Hospital Mannawala, Where I am undergoing treatment and doctors have also conducted my medical examination. Strict legal action be taken against accused persons and justice to be given to me. I have made my statement in presence of my daughter-in-law Simran Kaur, heard, it is correct.



*LTI Sawinder Singh, Sd/-Simran Kaur, attested: Sukhwant Singh
ASI I/C PP Bandala police station 'Jandiala' dated 28.07.2024.'*

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 there is delay of one day in lodging the present FIR as the alleged incident took place on 27.07.2024 and the FIR was registered on 28.07.2024, moreso, no injury has been attributed to the petitioner. He has further argued that the antecedents of the petitioner are clean, meaning thereby he is not a habitual offender and co-accused Lovepreet Singh has already been granted concession of regular bail vide order dated 14.01.2025 passed in CRM-M-55455-2024, 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 petitioner, which is taken on record. According to which, the petitioner is behind bars for 4 months and 12 days.

Learned State Counsel on instructions from the Investigating Officer opposes 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. 4 months and 12 days, similarly situated co-accused has already been



granted concession of bail by this Court, antecedents of the petitioner are clean, meaning thereby he is not a habitual offender, moreso, no injury has been attributed to him 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 16.12.2024 charges are yet to be framed, out of 12 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 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*

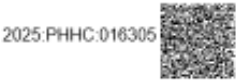


there is enormous overcrowding in prisons, leading to social and other problems as noticed by this Court in In Re-Inhuman Conditions in 1382 Prisons, 2017(4) RCR (Criminal) 416: 2017(5) Recent Apex Judgments (R.A.J.) 408 : (2017) 10 SCC 658

6. The historical background of the provision for bail has been elaborately and lucidly explained in a recent decision delivered in 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 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

04.02.2025
anuradha

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