

2025:PHHC:080210



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. **CRM M-6400 of 2025 (O&M)**
Date of Decision: 03.07.2025

Sube Singh		...Petitioner
	Versus	
State of Haryana		... Respondent

2. **CRM M-26028 of 2025**

Chanderpal @ Tunni		...Petitioner
	Versus	
State of Haryana		... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Keshav Pratap Singh, Advocate
for the petitioner in CRM M-6400 of 2025.

Mr. Gulshan Nandwani, Advocate
for the petitioner in CRM M-26028-2025.

Mr. Rajiv Sidhu, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. This order shall dispose off two petitions, i.e., CRM M-6400 of 2025 titled as “*Sube Singh Vs. State of Haryana*”, and CRM M-26028-2025 titled as “*Chanderpal @ Tunni Vs. State of Haryana*”, whereby, the petitioners have prayed for grant of concession of regular bail in a case FIR No.214 dated 09.03.2020

under Sections 307, 506, 120-B and 201 of IPC and Sections 25-54-59 of the Arms Act, 1959 (Section 201 IPC was added later on) registered at Police Station Model Town Rewari, District Rewari.

2. The FIR in the present case has been registered on the basis of the statement made by Bir Singh son of Dulichand and the same has been reproduced below:-

“To The SHO Police Station Model Town Rewari Dear I Bir Singh S/O SH. Dulichand caste Gujjar am resident of House No. 3126/196 Rajiv Nagar Rewari. Today on 9.3.2020 at around 1.46, I was keeping the cylinder in my car outside my house, at the same time, 4 boys on 2 motorcycles, and on each of two motor cycles, two boys were sitting who came close to me and one boy placed a pistol on my forehead and fired at my forehead but the fire missed. When I saw this boy, he was Harkesh S/O Kala caste Gujjar resident of Bada Talab Rewari. Then I caught Harkesh. At the same time his friend Manish S/O Bhup caste Gujjar resident of Bada Talab came near me and fired at me, but the bullet passed near my ear and some shrapnel hit my body which I narrowly escaped and after that two boys whose names I don't know both had pistols which they also fired at me to kill me, but the bullet did not hit me and hit the wall and another vehicle parked at another spot. Then I caught Harkesh but at the same time another boy Manish came who fired a bullet and got freed him. In the scuffle I snatched the desi pistol from Manish's hand which I am presenting to you along with the snatched pistol along with the empty shell. After

this incident all four boys fled towards Muktiwada Mohalla on their respective motorcycles. The reason is enmity. That I met Vikas S/O Suresh and Aman S/O Satish with whom an agreement was made for a plot situated at Village Padaiyawas situated within the limits of village. That Vikas lives behind Somani College and he is Yadav by caste and Aman Ghadi lives in C Block in Society Manchadan on Bolni Road, he is also Yadav by caste. On January 3, 2020, phone call was received from M. Ph. No. 639239810625 who said, I am Sube Rathi Baar Gujjar. The agreement which you have entered into with Vikas or Aman of plot, return the same, the money will be returned by us later on. However I did not return the agreement. Then on 24 January 2020, a WhatsApp call came from Chand S/O Prithvi Village Mudanwas's phone number 8683838202 on my phone number 890111718 and he said that the agreement which Sube Bhaisaab had asked to return why didn't you have returned it, I have started enmity with you from today itself. Then on March 3, Chand's mother Sharbati M No 9350900425 whatsapp calling came on my wife's Ph. No 9996212828 and said that give that agreement to my son Virender alias Bilos otherwise you will become widow and we will kill your family member, who has hatched a conspiracy in respect of the above matter and sent the above mentioned boys with weapons on motor cycles and got 3 shots fired at me with the intention of killing me. Then my brother Bhim Singh informed the police station Model Town on phone number 260122 and the police reached the spot and took me to Trauma Center Rewari

in emergency. Doctor treated me and issued report. Please take action. Thanking you Sd/- Bir Singh Complainant Bir Singh s/o Dulichand 8901111718, 9-3-2020”.

3. Learned counsel appearing on behalf of Sube Singh (petitioner in CRM M-6400-2025) submits that the petitioner had been named in the FIR only on the basis of the suspicion, otherwise, he had no concern with the transaction mentioned in the FIR. Even, admittedly, the shots were fired by Harkesh, Manish and two other boys, who had accompanied them and the petitioner was not present at the place of occurrence. It has been alleged that on 03.01.2020, the petitioner had allegedly made a phone call from his phone to complainant and told him to cancel an agreement to sell regarding a plot. Learned counsel further submits that vide orders annexures P-2 to P-5, co-accused, namely, Sarbati, Manish, Ritik and Akash have already been granted the concession of bail. Moreover, the petitioner was arrested in the present case on 14.05.2021 and is in custody for the last more than 04 years and 02 months. The trial is still pending before the trial Court and is not likely to conclude in near future.

4. Learned counsel appearing on behalf of Chanderpal @ Tunni (petitioner in CRM M-26028-2025) submits that admittedly, the petitioner was not named in the FIR nor he was present at the place of occurrence. In the present case, the petitioner was initially arrested by the police and was granted the concession of bail on

04.10.2021. However, he could not appear before the trial Court and was declared as proclaimed offender. Later on, the petitioner was again arrested on 20.05.2023 and is in custody for the last 02 years again. Learned counsel further submits that co-accused, namely, Sarbati, Akash, Anil and Manish have already been granted the concession of bail by this Court and on parity, the petitioner is also entitled to be released on bail.

5. On the other hand, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioners on the ground that both the petitioners are hardened criminals and do not deserve the concession of bail. Sube Singh, the petitioner is facing the trial in 35 cases and is a hardened criminal. Similarly, Chanderpal @ Tunni is also found involved in 09 more criminal cases. Thus, both the petitions are liable to be dismissed by this Court.

6. I have heard learned counsel for the parties and perused the record.

7. It has been held by the Hon'ble Supreme Court in the matter of ***“Ranjan Dwivedi Vs. CBI, through the Director General, 2012(8) SCC 495; 2012 (4) RCR (Criminal) 880”*** as follows:-

“14. In Kartar Singh v. State of Punjab, (supra), another Constitution Bench considered the right to speedy trial and opined that the delay is dependent on the

circumstances of each case, because reasons for delay will vary. This Court held :

"84. The right to a speedy trial is a derivation from a provision of Magna Carta. This principle has also been incorporated into the Virginia Declaration of Rights of 1776 and from there into the Sixth Amendment of the Constitution of United States of America which reads, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial...". It may be pointed out, in this connection, that there is a Federal Act of 1974 called 'Speedy Trial Act' establishing a set of time-limits for carrying out the major events, e.g., information, indictment, arraignment, in the prosecution of criminal cases. [See Black's Law Dictionary, 6th Edn. Page 1400].

85. The right to a speedy trial is not only an important safeguard to prevent undue and oppressive incarceration, to minimise anxiety and concern accompanying the accusation and to limit the possibility of impairing the ability of an accused to defend himself but also there is a societal interest in providing a speedy trial. This right has been actuated in the recent past and the courts have laid down a series of decisions opening up new vistas of fundamental rights. In fact, lot of cases are coming before the courts for quashing of proceedings on the ground of inordinate and undue delay stating that the invocation of this right even need not await formal indictment or charge.

86. The concept of speedy trial is read into Article 21 as an essential part of the fundamental right to life and

liberty guaranteed and preserved under our Constitution. The right to speedy trial begins with the actual restraint imposed by arrest and consequent incarceration and continues at all stages, namely, the stage of investigation, inquiry, trial, appeal and revision so that any possible prejudice that may result from impermissible and avoidable delay from the time of the commission of the offence till it consummates into a finality, can be averted. In this context, it may be noted that the constitutional guarantee of speedy trial is properly reflected in Section 309 of the Code of Criminal Procedure.

87. This Court in Hussainara Khatoon v. Home Secretary, AIR 1979 Supreme Court 1360, State of Bihar while dealing with Article 21 of the Constitution of India has observed thus: (SCC p. 89, para 5)

"No procedure which does not ensure a reasonably quick trial can be regarded as 'reasonable, fair or just' and it would fall foul of Article 21. There can, therefore, be no doubt that speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21. The question which would, however, arise is as to what would be the consequence if a person accused of an offence is denied speedy trial and is sought to be deprived of his liberty by imprisonment as a result of a long delayed trial in violation of his fundamental right under Article 21. Would he be entitled to be released unconditionally freed from the charge levelled against him on the ground that trying him after

an unduly long period of time and convicting him after such trial would constitute violation of his fundamental right under Article 21."

See also (1) Sunil Batra v. Delhi Administration (I), (2) Hussainara Khatoon (I) v. Home Secretary, State of Bihar, (3) Hussainara Khatoon (IV) v. Home Secretary, State of Bihar, Patna, (4) Hussainara Khatoon (VI) v. Home Secretary, State of Bihar, Govt. of Bihar, Patna, (5) Kadra Pahadia v. State of Bihar (II), (6) T.V. Vatheeswaran v. State of T.N., and (7) Abdul Rehman Antulay v. R.S. Nayak. 88. Thus this Court by a line of judicial pronouncements has emphasised and re-emphasised that speedy trial is one of the facets of the fundamental right to life and liberty enshrined in Article 21 and the law must ensure 'reasonable, just and fair' procedure which has a creative connotation after the decision of this Court in Maneka Gandhi."

The Court further observed : "92. Of course, no length of time is per se too long to pass scrutiny under this principle nor the accused is called upon to show the actual prejudice by delay of disposal of cases. On the other hand, the court has to adopt a balancing approach by taking note of the possible prejudices and disadvantages to be suffered by the accused by avoidable delay and to determine whether the accused in a criminal proceeding has been deprived of his right of having speedy trial with unreasonable delay which could be identified by the factors - (1) length of delay, (2) the justification for the delay, (3) the accused's assertion of his right to speedy trial, and (4) prejudice caused to the

accused by such delay. However, the fact of delay is dependent on the circumstances of each case because reasons for delay will vary, such as delay in investigation on account of the widespread ramification of crimes and its designed network either nationally or internationally, the deliberate absence of witness or witnesses, crowded dockets on the file of the court etc."

8. Hon'ble the Supreme Court in **Gudikanti Narasimhulu and others v. Public Prosecutor, AIR 1978 SC 429** has held as under:-

"Bail or Jail"- at the pre-trial or post-conviction stage - largely hinged on judicial discretion. The learned Judge held that personal liberty was too precious a value of our constitutional system recognised under Article 21 that the crucial power to negate it was a great trust exercisable not casually but judicially, with lively concern for the cost to the individual and the community. It was further held that deprivation of personal freedom must be founded on the most serious considerations relevant to the welfare objectives of society specified in the Constitution. The learned Judge quoted Lord Russel who had said that bail was not to be withheld as a punishment and that the requirements as to bail were merely to secure the attendance of the prisoner at trial. According to V.R. Krishna Iyer, J., the principal rule to guide release on bail should be to secure the presence of the applicant to take judgment and serve sentence in the event of the Court punishing him with imprisonment. After holding that it makes sense to assume that a man

on bail has a better chance to prepare and present his case than one remanded in custody the learned Judge observed that if public justice is to be promoted mechanical detention should be demoted.

9. **In Gurbaksh Singh Sibbia etc Vs The State of Punjab, AIR 1980 SC 1632**, Hon'ble the Supreme Court has observed as under:-

*“Judges have to decide cases as they come before them, mindful of the need to keep passions and prejudices out of their decisions. The Court has also observed that in which case bail should be granted and in which case it should be refused is a matter of discretion. The court found it interesting to note that as long back as in 1924 it was held by the High Court of Calcutta in Nagendra Vs. King Emperor, AIR 1924 Calcutta 476, that the object of bail was to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused was whether it was probable that the party would appear to take his trial and that it was indisputable that bail was not to be withheld as a punishment. The Supreme Court also referred to the observation of the Allahabad High Court in **K.N. Joglekar Vs. Emperor, AIR 1931 Allahabad 504**, that Section 498 of the Old Code which corresponds to Section 439 of the New Code, conferred upon the Sessions Judge or the High Court wide powers to grant bail which were not handicapped by the restrictions in the preceding Section 497 which corresponds to the present Section 437. The Allahabad*

High Court had also observed that there was no hard and fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and that the only principle which was established was that the discretion should be exercised judiciously. The Supreme Court referred also the decision of the Allahabad High Court in Emperor Vs. H.L. Hutchinson, AIR 1931 Allahabad 356, wherein it was held that the principle to be deduced from the various sections in the Cr.P.C. was that grant of bail is the rule and refusal is the exception, that as a presumably innocent person, the accused person is entitled to freedom and every opportunity to look after his own case and to establish his innocence and that an accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. The High Court had also held that it would be very unwise to make an attempt to lay down any particular rules which would bind the High Court, having regard to the fact that the legislature itself left the discretion of the Court unfettered. According to the High Court, the variety of cases that may arise from time to time cannot be safely classified and it is dangerous to make an attempt to classify the cases and to say that in particular classes bail may be granted but not in other classes. The Supreme Court apparently approved the above views and observations and held (vide paragraph 30) as follows :

"It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of

circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail."

10. At this stage, it is observed that the object of the bail is to secure the presence of the accused at the trial only. It is also observed that the object of bail is neither punitive nor preventive and deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. Hon'ble the Supreme Court has observed in catena of judgments that when a person is punished by denial of bail in respect of any matter upon which he has not been convicted it would be contrary to the concept of personal liberty enshrined in the Constitution except in cases where there is reason to believe that he may influence the witnesses. It is appropriate to say that pre-conviction detention should not be resorted to, except in cases of necessity to secure attendance at the trial or upon material that the accused will tamper with the witnesses if left at liberty.

11. From a bare perusal of the allegations levelled in the FIR, it is evident that the complainant has levelled serious allegations against the petitioners. However, the petitioners cannot be kept behind the bars as an under trial for an indefinite period. Sube Singh, petitioner was arrested in the present case on 14.05.2021 and is in custody for the last more than 04 years and 02 months whereas

Chanderpal @ Tunni, petitioner, is in custody for the last 02 years. In fact, it was the duty of the prosecution to complete the prosecution evidence as early as possible and the delay in concluding the trial has violated the right of the petitioners under Article 21 of the Constitution of India.

12. In view of the above, without commenting any further on the merits, the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

03.07.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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