



CRM-M-6270-2025

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

CRM-M-6270-2025
DECIDED ON: 29.07.2025

KULBIR SINGH AND ANR.

.....PETITIONERS

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vinod Ghai, Sr. Advocate with
Ms. Kashish Sahni, Advocate
for the petitioners.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

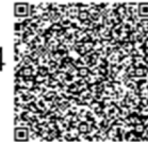
Mr. Balraj Gujjar, Advocate and
Ms. Shweta Bawa, Advocate
for the complainant.

SANDEEP MOUDGIL, J (ORAL)**Prayer**

This is the petition filed under Section 483 of BNSS seeking regular bail in FIR No.12, dated 06.01.2025, under Sections 190, 191(3), 351(3), 109(1), 115 of BNS and Section 25 of Arms Act, registered at Police Station City Palwal, District Palwal.

2. Contentions:**On behalf of the petitioner**

Learned Senior counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He further submits that it was the complainant party who attacked on the property and person of the petitioners, and they only acted in self-defence. It has been further



CRM-M-6270-2025

contended that the petitioners only fired shots in the air to deter the villagers who had attacked with their weapons. It has been further contended that it is a case of no firearm injury.

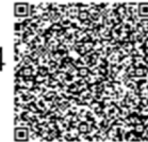
On behalf of the State/complainant

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He along with learned counsel for the complainant seek dismissal of the instant petition on the ground that the allegations against the petitioners are serious in nature as the incident involved indiscriminate firing in a populated area, causing a threat to public safety and peace.

3. Analysis

Be that as it may, considering the facts that the petitioner has suffered incarceration for a period of 22 days; it is a case of no firearm injury and moreover, shots were fired in the air for self-defence; the petitioner is a man of clean antecedents as he is not involved in any other case, as is evident from custody certificate added with the fact that the investigation is not yet completed and therefore, the trial has not started yet, which is suffice for this Court to infer that the conclusion of trial shall take considerable time, this Court is of the considering view that detaining the petitioner behind the bars for an indefinite period would serve 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



CRM-M-6270-2025

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



CRM-M-6270-2025

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*



CRM-M-6270-2025

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.”

4. Relief:

In light of the above, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

The present petition is, hereby, allowed.

(SANDEEP MOUDGIL)
JUDGE

29.07.2025

Sonia

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