



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7781-2025
DECIDED ON: 17.02.2025

SUNNY KUMAR

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Aditya Sharma, Advocate and
Mr. Manish Giri, Advocate for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 483 B.N.S.S. seeking grant of regular bail to the petitioner in FIR No.86 dated 26.10.2023 under Sections 324 and 34 IPC (under Sections 307 & IPC 201 added later on), registered at Police Station Dhakoli, District SAS Nagar (Mohali).

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Statement of Ranjit Singh s/o Karnaol Singh, resident of Village Gazipur Jattan front of Golden Shed PS Dhakoli, district SAS Nagar age about 52 years, mobile number 981532323. I, the resident of the above address and working as an agriculturist and one Minta son of Sham Yadav r/o of Village khadik PS Khagdiya District Bhagalpur Bihar has been working with me as servant since the year 2003 and he does the agricultural work and take care of the buffaloes

and I have constructed one separate room in my house for the aforesaid Minta, who is residing therein alongwith his family. On 25.10.2023, I was returning from fields to my house and when I and Sandeep Kumar s/o Late. Gurnam Singh r/o village Rampur district Sharanpur present r/o of Karamjit Singh's Motor alias Sodhi when reached near Tricity Peer Mandir, Gazipur Jattan, then some boys were fighting with the aforesaid Minta. At about 9.40 PM, the me and the aforesaid Sandeep reached the spot to save the aforesaid Minta from the accused persons, then the aforesaid Sandeep Kumar told that one of the persons from the assailants is the Vijay Kumar @ Mass s/o Ramakant r/o # 14 G. Ashiana Colony Sector Panchkula, who is habitual of extorting money from people by assaulting them. That in the meanwhile, the Vijay Kumar has taken out the knife from the waistline of his pants and two of the co-accused has caught hold of the aforesaid Minta from his arms and thereafter, the petitioner has inflicted knife blow in the left side of the abdomen of the aforesaid Minta with an intention to kill him and thereafter, had incited another blow on the right side of the waistline of the aforesaid Minta and resultantly, the aforesaid Minta had fallen to the ground and all three accused fled away from the spot on the Bullet Motorcycle bearing registration No. HR-03-AB-2937 along with knife. Sandeep Kumar and I handled above injured Mintu and by arrangement of private car taken him at CHC, Dhakoli for his treatment. Where the doctor sahib given Mintu First Aid and referred to 32, GMCH, Chandigarh. Where the Mintu has still under treatment. I have recorded my statement and it is recorded correctly. SD/- Aswani kumar ASI PS Khakoli dated 26.10.2023. Police Action-Today I was present at PS and Munshi Harmandar Singh 1897/SAS Nagar recorded a Medical Report Victim Minta s/o Sham Yadav r/o Gazipur Jattan admitted to GMCH 32 through C.R. No. 231015159 Chandigarh due to quarrel and go for further action. On this, I along with Gurwinder Singh 915/SAS Nagar, constable Gurmit Choudary 1285/SAS Nagar reached GMCH 32 Chadigarh. Where victim Minta's

medical report obtain from police station. Thereafter a written request is moved to doctor regarding fitness of victim and doctor replied victim is unfit to record his statement and aforesaid Ranjit Singh recorded his statement in written. which was written down, read out, and explained to him. He accepted his statement as correct and signed it in English and Which was confirmed by Sandeep Kumar by his thumb impression on it and verified by me. As per statement offences were found to be related to offenses under sections 324,34 IPC. Accordingly, a case has been registered against aforementioned Vijay Kumar alias Mass and 2 unknown person with him this case is being forwarded through constable Gurmit Choudry/ 1285/ SAS Nagar at Police Station. After registration of case, the number should be informed from the case and special reports should be issued. I, along with my fellow employees, am busy on the spot for investigation.”

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner contends that that the role attributed to the petitioner i.e. caught holding of the victim-injured, is lesser than the role attributed to the main accused Vijay, who has already been granted the concession of regular bail by this Court vide order dated 11.09.2024 (Annexure P-4) passed in CRM-M-42509-2024. He further contends that the petitioner was subsequently roped in only on the basis of hear say evidence and nothing has been recovered from the present petitioner.

On behalf of the State

On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record.

He seeks dismissal of the instant petition on the ground that the petitioner is a habitual offender as he is involved in two more cases, wherein he is on production warrant.

4. **Analysis**

Be that as it may, considering the custody period i.e. 1 year, 03 months and 12 days for which the petitioner has suffered incarceration; the main accused namely Vijay has already been granted the concession of regular bail by this Court vide order dated 11.09.2024 (Annexure P-4) passed in CRM-M-42509-2024 in addition to the fact that investigation is complete, challan stands presented to Court on 24.01.2024, charges have been framed on 10.07.2024 and out of total 13 prosecution witnesses none has been examined so far, which is suffice for this Court to infer that the conclusion of trial will take long time for which the petitioner cannot be detained behind the bars for an indefinite period.

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

5. **DECISION:**

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

17.02.2025

Poonam Negi

**(SANDEEP MOUDGIL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No