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

CRM-M-8194-2025

DATE OF DECISION: 11.03.2025

SURESH KUMAR

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vikas Bairagi, Advocate and
Ms. Raina Godara, Advocate for the petitioner(s).

Mr. Chetan Sharma, DAG, Haryana.

Mr. Abhimanyu Balyan, Advocate and
Mr. Lakhan Singh, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This petition has been filed under Section 483 of the
Bhartiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail in
FIR 244 dated 10.06.2024 under Section 406, 419, 420, 467, 468,
471,120-B of Indian Penal Code 1860, registered at Police Station
Civil Lines, Kaithal.

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



'At this time a complaint no. 897 peshee dated 02.05.2024 after investigation report was received from economics offence branch keth, in respect of complainant Rajrup son of Sh. Balwant Singh resident of Defence Colony, street no. D 12, Kaithal against Ramesh Son of Ronki Ram resident of Chhot, currently Bhagat Singh Colony, Kaithal, Deepak Son of Ram Singh and Suresh Kumar son of Jil Singh resident of Village Dandh, Kaithal, regarding fraud of Rs. 5,50,000/- in the name of selling the plot by preparing fake documents, which is as follows: To Honourable Superintendent of Police Kaithal, Subject: about taking money by getting an agreement done fraudulently by showing wrong document. Sir, the request is that the applicant has agreed to purchase a part of plot no. 144-145 of 150 sq. yard Waka Patti Gadad Janakpuri colony street no. 10 as per the agreement dated 06.03.2024 from Deepak Kumar son of Sh. Ram Singh resident Dhand District kaithal. In which we have paid Rs. 5,50,000/- as advance money in cash at the behest of Suresh Kumar son of Sh. Jile Singh resident of Dhand district Kaithal, taking all the responsibility of the owner Deepak Kumar. The agreement for which has been made which is attached. In which it has been decided to get it done by the due date 05.06.2024. later we came to know that the said buyer has cheated us and the said people do not have any plot at the spot. It is that when the committee asked for the documents to get the ID made, they did not give us the document for many days and later they send us the family ID and Aadhar card of Suresh Kumar son of Sh. Dhuman ram resident of Deodh Khedi. When we met the real owner on suspicion, he told us that I do not have any plot there and neither have I given my documents. In this way we have been cheated and when we asked for our money back the said Deepak and Suresh kumar s/o Jile Singh threatened to kill us and said that we will not return your money, do whatever you can you cannot harm us. In this way we are facing a threat to our life and property from the said accused, who can harm anyone anywhere at any time. Therefore we



request you to accept our request and get our money back by taking strict legal action against the said accused as soon as possible, it will be your great kindness. With thanks, applicant SD Rajrup son of Sh. Balwantsingh resident of Defence colony, gali no. 12 Kaithal. On the above complaint Fir no. 244 dated 10.06.2024 under section 406, 420 IPC was registered at Civil Line Police Station, Kaithal and the copy along- with the original complaint was handed over to mishal police for further action. Other copies of the FIR will be sent to the service of bajaria post officer bala. The case was registered in the attendance of SI Paras 87/ Kaithal.'

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 has argued that the dispute involved in the present FIR is civil in nature which has been given colour of criminal liability, moreso, the matter has been compromised between the parties with the intervention of the respectable members of the society and the copy of affidavit is annexed with the petition as Annexure P-2, therefore, prays for grant of regular bail to the petitioner.

On behalf of the State and counsel for the complainant

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 6 months and 14 days.



Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the petitioner is a habitual offender as he is involved in one more FIR.

Learned counsel for the complainant is in agreement with the counsel for the petitioner that the matter has been compromised between the parties and he has no objection if bail is granted to 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. 6 months and 14 days and the matter has been already compromised between the parties 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 19.11.2024 charges are yet to be framed and 14 PWs cited by the prosecution are yet to be examined 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.

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 the concession of bail.

5. Relief

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

11.03.2025
anuradha

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No