



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

CRM-M-8225-2025

Date of Decision:08.04.2025

SHAMSHER SINGH

...Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM:- HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Amjad Khan, Advocate for the petitioner.

Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J. (Oral)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 483 of B.N.N.S., 2023, for grant of regular bail to petitioner in case FIR No. 0096 dated 12.10.2024, under Sections 109, 331 (7), 115 (2), 191 (3), 190, 351 (2), 351 (3), 324 (6), BNS 2023, (Section 25, 27 Arms Act 1959 added later on) registered at Police Station Longowal, District Sangrur (Annexure P-1).

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

“Copy of statement of Bahadar Singh son of Mukhtyar Singh resident of Jaid Patti Longowal aged about 45 years Mobile: 9872412826. Stated that I am resident of above address and I do work of agriculture. My elder brother is named Karamjit Singh alias Kamma and since long time we are in land dispute of our village residents namely Shamsher Singh son of Sewa Singh, Satnam Singh alias Karori, Harnam Singh alias Pappu sons of Shamsher Singh and their relative Balvir Singh son of Hardev Singh, Hardev Singh son of Shamsher Singh residents of Badbar



regarding the land situated at Kunra Road and Kassi Wali. That Shamsher Singh etc. are expressing their undue rights on the same land and we have given our land on lease 'theka' to Charanjit Dass son of Niranjan Dass resident of Village Bhai Ki Samadh. I often visit house of Charanjit Dass. Yesterday i.e. on 11.10.2024 at about 9:30 PM, I was sitting at house of Charanjit Dass with Charanjit Dass and his son Munish Bawa and all of us were discussing in varandah and we heard noises of shouting and challenging and I saw that Satnam Singh alias Karori, Harnam Singh alias Pappu and Balvir Singh along with one more accomplice namely Narinder Singh son of Pal Singh resident of Mandor Khurd came inside the house by climbing the wall and they were holding gandasa, swords, 'krich' in their hands and they entered the house and opened the main gate of the house from inside and Shamsher Singh and Hardev Singh along with 10/12 unknown persons entered the house and they were holding daang and sticks 'sotiyan' Thereafter, Satnam Singh alias Karori shouted and challenged and attacked Munish Bawa with gandasa which he was holding in his hand with intentions to kill Munish Bawa son of Charanjit Dass and the blow hit at side forehead 'putputi' and thereafter, Harnam Singh alias Pappu attacked with sword 'kripan' at Munish Bawa and the blow was hit at left arm of Munish Bawa and upon being hit Munish Bawa fell on ground and I and Charanjit Dass attempted to save Munish Bawa and then Balvir Singh grabbed me from behind and Shamsher Singh hit me with the stick 'soti' which he was holding and the blow hit me at my stomach and then Balvir Singh took out 'kirach' and made several blows at my leg and then Satnam Singh alias Karori hit Charanjit Dass with gandasa at his right hand and Hardev Singh hit Charanjit Dass with stick 'soti' at his back 'dhuhi'. Narinder Singh hit with his sword to Charanjit Singh and the blow was hit near his left arm which nearly touched his body and passed. Thereafter, Hardev Singh hit with stick at Charanjit Dass at his left 'gutt' and in the meantime other unknown persons who were holding sticks and 'daang' started causing beating to us with intentions to kill us. In the meantime, they also started damaging household items and upon seeing nearby people gathering all of them fled from there while giving us life threats. Due to lot of injuries, Munish Bawa



was unconscious and we were taken for treatment by Satgur Singh son of Najar Singh resident of Pindi Bhai Ki Samadh Longowal and we were got admitted at Civil Hospital Sangrur. From there, I and Munish Bawa were referred to Rajindra Hospital, Patiala "or treatment and we are presently undergoing treatment here. Reason for this is holding grudges because we have land dispute with Satnam Singh alias Karori and in this regard already case has been registered against Shamsher Singh etc. Shamsher Singh and party had taken illegal possession on the land and we have already won the case from Hon'ble Punjab and Haryana High Court and Hon'ble High Court had passed its decision in our favour. Due to this reason, upon being frustrated from our victory and while holding grudges over land dispute all of these persons have attacked us with intentions to kill us. We got saved from this attack. Legal action be taken against Shamsher Singh son of Sewa Singh, Satnam Singh alias Karori, Harnam Singh alias Pappu resident of Jaid Patti Logowal, Balvir Singh son of Hardev Singh, Hardev Singh son of Sher Singh residents of Badbar, Narinder Singh alias Keot son of Pal Singh resident of Manderla Khurd and 10/12 unknown persons. I have submitted statement before you and heard the contents which are correct. Sd/- Bahadar Singh.

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner is innocent and has not committed any offence as alleged in the FIR and a though a false case has been registered by the police at the instance of the complainant, and as per the FIR only allegations against the petitioner is that he gave *sotti* blow to the stomach of the complainant. He further submits that petitioner is in custody since 13.10.2024 and petitioner is a person of clean antecedents and not a habitual offender. Nothing is to be recovered from him in light of the fact that investigation is complete and challan is presented, therefore, no purpose would be served in keeping the petitioner



behind bars.

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 along with co-accused got in scuffle with the complainant and gave *sotti* blow on the stomach of complainant.

4. **Analysis**

Be that as it may, considering the custody period i.e. 05 months and 21 days for which the petitioner has suffered incarceration; the injury is simple in nature as is the case put forth by the State as well. No other case is pending against the petitioner and he is not a habitual offender. Considering the nature of allegations which are not enough for custodial interrogation of the petitioner in addition to the fact that investigation is complete, challan stands presented to Court on 07.01.2025, charges are yet to be framed and total 27 prosecution witnesses have been cited, 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.

5. **RELIEF**

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.

(SANDEEP MOUDGIL)
JUDGE

08.04.2025

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