



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8506-2025
DECIDED ON: 06.03.2025

PARVEEN ALIAS LALA

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Anshul Khurana, Advocate for
Mr. Saleem Ahmed, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 483 of BNSS for the grant of regular bail to the petitioner in case bearing FIR No.425 dated 06.10.2024 U/s 109(1), 3(5) BNS, 2023 and Section 25, 54 Arms Act, 1959 (Sections 238, 61(2) BNS and Section 25 Arms Act, 1959 added during investigation), registered at Police Station Kheripul, District Faridabad (Haryana).

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

*“To the SHO, Kheripul, Police Station, Faridabad.
Subject: - Regarding attempt to murder and shooting. Sir,
I request that I, Jai Singh son of Shri Ram Avadh Singh is
the permanent resident of H.No.2, Street no.3, 35 Feet*

Road, Bharat Colony. That today on 05.10.2024, I and my family went to Nidhi School located at Kacha way to cast vote and after casting, we returned to our homes and my son Rajneesh stayed there. Around 4-5 pm, Rajneesh told me that a little while ago, to remove the table and due to election rivalry, Dan Singh alias Dani, Shri Chand Gautam, Kamal Saurat, Captain R.P. Prasad, nephew of Jeetu Dani and 10-15 other people tried to fight with me and left from there after threatening to kill me. While leaving, they said that Lakhan Singla is supporting us and he has said that no matter, who we have to kill, don't be afraid, this election has to be won in any case. So, all the people present over there sent them away after understanding. After about 2-2.5 hours, I got the information that your son Rajneesh has been shot by the same people with whom he had a fight in the evening and the people present over there have taken him to the hospital. After getting the information, I reached the hospital and found out that the people whose names, Rajneesh had mentioned during the day, had committed this incident under conspiracy. So, I request you to take strict action against these people and their 10-15 other companions and provide us security. It will be highly thankful to you. Thank you SD-JAISINGH DT 05.10.2024 9971941048 Applicant:- Jai Singh son of Ram Avadh Singh resident of H.No.2, Street No.3, 35 Feet Road, Bharat Colony Faridabad. Police Proceedings: - On 05.10.2024, information received at police post, Sector-16 Faridabad through telephone that victim Rajneesh injured in a shot injury and has been admitted to MARENGO ASIA HOSPITAL, Sector-16, on receiving this information I, ASI along with HC Hitesh 2603 left for Police Post, Sector-16 Faridabad, from where after receiving the report reached MARENGO ASIA

HOSPITAL, Sector-16, where MLR NO-JS-037/2024 DT 05.10.2024 of victim received from doctor in which doctor has mentioned total one injury LEFT LOWER CHEST- 1.5 CM PENETRATING WOUND (ROUND) WITH INVERTED EDGES IN POSTERIOR LEFT LOWER CHEST GENERAL SURGERY OPINION. That doctor was consulted for recording statement of injured, who declared UNFIT FOR STATEMENT, after which information was sought about the family of injured. After a long wait, Rajneesh's father Jai Singh submitted a written complaint to me ASI and for verification, me ASI along with companion HC Hitesh 2603 reached at the scene of incident, Nidhi Public School, Kacha way Bharat Colony, Faridabad. The statements of the witnesses of the incident, Anup and Devendra, were recorded, who stated in their statements that we were standing outside the Nidhi School when two masked young boys came on a motorcycle and the boy sitting behind on the motorcycle shot Rajneesh in the waist, the sound of a firecracker was heard and after the motorcycle left, Rajneesh said that I have been shot. We admitted Rajneesh to the hospital for treatment and the CCTV camera footage of the spot was checked in which two young boys were seen going near to Rajneesh. On the basis of the application or the injuries shown in the MLR and from the investigation conducted by me ASI, on finding the offence to be occurred Us 109, 3(5) BNS, 25-54-59 A Act, the written complaint handed over to HC Hitesh 2603 for registration of FIR, after registration of FIR, number be informed. A special report of the case should be sent to the Area Magistrate and higher officers through special constable. The SCENE OF CRIME team has been informed over the telephone about reaching at the spot.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner was not initially named in the FIR but out of enmity subsequently was named by co-accused Manish Rawal. He further contends that the petitioner was nominated as an accused with the allegation that he provided Rs.50,000/- for arranging the country-made pistol. He would argue his innocence having no connection with the commissioning of the offence and even submit that the investigating officer could not find any corroborating material to connect him with the co-accused Manish Rawal in furtherance of his alleged disclosure statement.

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 there is specific disclosure statement against the present petitioner by co-accused Manish Rawal that he provided money for purchase of country-made pistol which was used in the commissioning of the offence.

4. **Analysis**

Be that as it may, it is evident from record after having gone through the submissions made by respective parties, there is no cogent evidence which could show the involvement of the present petitioner with the commissioning of offence especially when learned State counsel could not show any corroborating material in support of disclosure statement of co-accused Manish Rawal that the petitioner paid him Rs.50,000/- in cash for the purchase of country-made pistol and hatched the criminal conspiracy.

Also, considering the custody period i.e. 03 months and 23 days for which the petitioner has suffered incarceration added with the fact that the petitioner is a man of clean antecedents as he is not involved in any other case, as is evident from custody certificate in addition to the fact that investigation is complete as challan stands presented to Court on 24.01.2025, charges are yet to be framed and total 36 prosecution witnesses have been cited, which is suffice for this Court to infer that the conclusion of the 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. **DECISION:**

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

06.03.2025

Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No