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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8844-2025
DECIDED ON: 21.02.2025

KANWALJIT SINGH ALIAS GORA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 483 BNSS, has been invoked for grant of regular bail to the petitioner in case FIR No. 68, dated 07.06.2024, under Sections 379-B(2), 34 of IPC, 1860 (Section 411 and 473 of IPC added later on), registered at Police Station Dugri, District Ludhiana.

2. Facts

Facts as narrated in the FIR reads as under:-

“Statement of Rajman son of Sh. Ram Murat resident of Village Gosri, Post Office Nodaun, Police SttionDidargani, District Azamgarh, Uttar Pradesh, presently residing as tenant in House No. 352/1, Darshan Singh Da Vehra, Opposite Sheetla Mata Mandir, Village Jawaddi Kalan, Police Station Dugri, Ludhiana, aged about 39 years, Mobile NO. 75183-93231. Stated that I am resident of above mentioned address and I have been coming to

Ludhiana Punjab for about 25 years to earn a livelihood by doing the wooden work. Presently my wooden work is going on at back side of Krishna Mandir, Model Town Extension, Ludhiana. Yesterday on 6-6-2024, I was going home from work on my cycle as usual, when I was going from Gali No. 7, Punjab Mata Nagar next to Celebration Restaurant, I was a little behind Dhillon Boutique + Dhillon Computer Café, it would be around 8:30 PM, a haircut young man started his motorcycle and was sitting on it and had put one of his legs down. The rear number plate of the bike had the number PB-10-FM-1435 and another youngmanyoung man was standing below the motorcycle. When I came near them, the person standing below came in front of me and hold the handle of my cycle and said that whatever you have, give it to me, so I said that I have only Rs. 300/-. On hearing this, the young man on the motorcycle told him that hit this person with datar, only then he will give more money. At the same time, the young man standing below took out a hidden Datariron from the clothes he was wearing behind his back and attacked me which hit me near my wrist of right hand. I was bleeding profusely on the spot. Then that person forcibly took out my purse from the back pocket of my pent, in which there was Rs. 10,000/- cash. Apart from this, there were Rs. 300/- more in the pocket of my shirt. They took that too forcibly and both the persons fled from the spot on the motorcycle number mentioned above. Then I took the help of a passerby and reached Civil Hospital, Ludhiana and got my hand bandaged and got a MLR made. Till now I was trying to find out about the above mentioned persons and I found out that the name of the young man who was riding on motorcycle No. PB - 10 - FM - 1435 at that time and had put one of his legs down, is Kanwaljit Singh @ Gora son of Late Balwinder Singh, resident of Village Gumtala, Amritsar, presently residing at NishaDancer House No. 411, Gali No. 6, Near Ramleela Park, Doctor Ambedkar Nagar, Ludhiana and the person who attacked me with a Datar iron and forcibly snatched my money of Rs.

10300/- is Manpreet Singh a Mani son of Balwinder Singh, resident of House No. 1863, Gali No. 03, Baba Deep Singh Nagar, Dhandran Road, Ludhiana, presently residing at Near Gurudwara Damdma Sahib, Village Dugri, Ludhiana. Legal action should be taken against said persons and do justice with me. Today I came to you at Chowki and got recorded my statement, heard, which is correct. Sd/- ”

3. **Contentions:**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and has been roped in the criminal conspiracy hatched at the behest of co-accused with the allegation that the petitioner alongwith his co-accused attacked the complainant with a Datar and iron rod and forcibly snatched money of Rs.10300/-. He further submits that the injury attributed to the petitioner is simple in nature.

On behalf of the State

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the present petition stating that the allegations against the petitioner are serious in nature, therefore, he does not deserve the concession of bail.

4. **Analysis**

Considering the custody period undergone by the petitioner i.e., 8 months and 12 days, wherein investigation is complete, challan stands presented on 30.07.2024, charges are yet to be framed and total 11 prosecution witnesses are cited by the prosecution for examination. This Court is sanguine of the fact that, conclusion of trial shall take considerable time, no useful purpose would be served by keeping the petitioner behind bars for uncertain period, wherein “*bail is a rule and jail is an exception*” and it would also violate the principle of right to speedy trial and expeditious disposal under

Article 21 of Constitution of India, as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal)***

131. 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 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

21.02.2025

Anuradha/Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>