



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10794-2025
DECIDED ON: 04.03.2025

JUJHAR SINGH ALIAS HAZARA SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Raja Paramdeep Saini, 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 of BNSS, 2023 for grant of regular bail to the petitioner in FIR No. 108 dated 06.06.2024 registered under Sections 323, 148, 149 IPC (Section 324/326 IPC added later on) & Sections 52-A Prisons Act at P.S. Islamabad, District Amritsar.

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

“Office of Superintendent, Central Jail, Amritsar through Sahib Singh, Assistant Superintendent Mobile No. 80540-03555, Central Jail, Amritsar. To Station House Officer, Islamabad. Letter No. 6179 dated 06-06-2024. Subject: Regarding legal action on account of fight and spat between two parties of inmates. First Party: 1. Inmate Gagandeep Singh @ Goga son of Baldev Singh resident

of House No. 405, Ward No. 5, Mohalla Shekhupura, Police Station Jandiala, District Amritsar. 2. Inmate Manpreet Singh @ Ladi son of Sarabeet Singh resident of Village Sidwa Chak, Police Station Ghuman, District Gurdaspur. 3. Inmate Juhar Singh @ Hazara son of Harjinder Singh resident of Gobar Gas Wali Gali, Kale Ghanupur, Police Station Chheharta, District Amritsar. 4. Inmate Narinder Singh son of Daljit Singh resident of House No. 1/115, Batala, Gali Gobar Gas Wali, Village Kale, District Amritsar 5. Inmate Lovepreet Singh @ Labha son of Lal Singh resident of Chingra Colony, Ram Tirath Road, District Amritsar 6. Inmate Kishanjit Singh son of Darshan Singh resident of House No. 360/15, Gali No. 6, Police Station Makboolpura, Mehta Road, Amritsar District Amritsar. Second Party 1. Inmate Amritpal Singh son of Ranjit Singh resident of Chandu Puja, Police Station Fatehgarh Chudian, District Gurdaspur 2. Inmate Jagmeet Singh son of Hardiyal Singh resident of Johal Dhai wala, Police Station Lopoke, District Tarn Taran. 3. Inmate Kamal Narain Singh son of Nirmal Singh resident of Village Saman, Police Station Kotli Surat Mahli, District Amritsar. 4. Inmate Jobanpreet Singh son of Jagdish Singh resident of Pandori Run Singh now Mandir Wali Gali, Kazikode, Tarn Taran Road, District Amritsar. Today on 5.6.2024 | was on duty as Assistant Superintendent Jail in Barrack No. 3 where I was the incharge. During this time at around 3 PM that Chakar Constable CJ 1 Warden Paramjit Singh 4674 and Warden Balkar Singh 4693 informed the Control Room that a fight had happened between Barracks 3/4. The Control room operator immediately and without any delay gave the said information to Additional Superintendent Sh. Shyamal Jyoti and Deputy Superintendent Factory Sh. Gurjant

Singh, Deputy Superintendent Security Sh. Gurjit Singh Brar and me (Assistant Superintendent Sahab Singh) were informed, on which we immediately acted and with the help of CRPF Officers separated the inmates who were fighting with light force and the inmates of the second party Amritpal Singh son of Ranjit Singh and inmate Kamal Narain Singh son of Nirmal Singh who got hurt during the fight on their arm were taken to the jail medical officer and on them giving first aid to the inmates, they were taken to the Civil Hospital where they were referred. During this when the reason of the fight between the inmates was confirmed from the other inmates of the barracks then we got to know that out of inmates of the first party inmate Lovepreet Singh @ Labha son of Lal Singh and second party inmate Amritpal Singh son of Ranjit Singh both were standing in the queue of the canteen for some items and there they had a verbal spat with each other regarding something due to which the inmates of the first party attacked the inmates of the second party in Room No.4 of Barrack No.3 by using an iron rod by pulling one out of the cage of the barrack and while making a weapon out of it due to which the inmates Amritpal Singh and Kamal Narain got injured. The weapon used in the above fight was taken by me immediately in my possession and the inmates who were involved in the fight were presented before higher officials on which the higher officials directed that appropriate action be taken against the inmates. Like this the said inmates while having fought inside the jail and while destroying the property of the jail have disturbed the discipline of the jail and that is why the instant letter is written to you that appropriate legal action be taken against the said inmates and whatever action is taken the same may be informed to

this office. Note: The MLR report of the inmates shall be sent-to you when the same is received. Enclosure: The details of the accused and their cases is being sent along with the E-prison record. True Sahib Singh, Assistant Superintendent, Central Jail, Amritsar, Office of Superintendent, Central Jail, Amritsar from Prabhdayal Singh, Assistant Superintendent Mobile No. 7973123771 Central Jail, Amritsar. To Station House Officer, Police Station Islamabad. Letter No. 6214 dated 06-06-2024 Subject: Regarding taking legal action against inmate Gurpreet Singh @ Gopi son of Atma Singh for fighting with inmate Ramesh Kumar son of Paramjit Kumar Today on 06.06.2024 at about 04:30 in the morning inmate Gurpreet Singh @ Gopi son of Atma Singh resident of Sadhpur, Police Station Jandiala, District Amritsar who is in custody in FIR No. 03/2022 u/s 379-B/36/34/201 and 25/27 Arms Act, Police Station Verowal and a few more cases in barrack 5/2. The said inmate while pulling out the iron rod from the cage of the barrack attacked the other inmate in the barrack No. 5/2 Ramesh Kumar son of Paramjit Kumar resident of Chheharta, District Amritsar who is in custody in FIR No. 180/2024 u/s 379-B/411 Police Station Chheharta who was sleeping in his corner, he went to his corner and attacked him with iron rod and injured him. The said information was given by the warden posted outside the barrack Harmanpreet Singh Belt No. 4739 to me and control room. I (Night Officer), immediately went to Barrack No. 5/2 while taking the keys and I saw that from the head of inmate Ramesh Kumar son of Paramjit Singh blood was coming out. The inmate Ramesh Kumar son of Paramjit Singh was immediately taken to the jail officer and after giving him first aid the jail guard took him for his further treatment to Guru Nanak Dev hospital. The

inmate Gurpreet Singh ® Gopi son of Atman Singh by fighting and injuring inmate Ramesh Kumar son of Paramjit Singh has committed a jail offence. That is why vide this letter it is written to you that appropriate legal action be taken against the said inmates and whatever action is taken the same be informed to this office. Enclosure as per the E-prison record the details of the accused and their cases. Correct Prabhdayal Singh, Assistant Superintendent, Central Jail, Amritsar. Serial No 1 Deputy Superintendent (Intelligence) Head office Jails, Chandigarh is being sent for information and for further inquiry. 2. The details of the above mentioned are being sent to Incharge Assistant Superintendent 5/5/25 register Central Jail, Amritsar for information and further inquiry. 3. The details of the above mentioned are being sent to the DIG Jails, Amritsar Circle for information and further inquiry. 4. The details of the above mentioned are being sent to the Welfare Officer, Central Jail, Amritsar for information and further inquiry. True Prabhdayal Singh, Assistant Superintendent, Central Jail Amritsar.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that no specific allegation or injury has been attributed to the petitioner and a perusal of the instant FIR would make it luminous that it has not even come forth that the present petitioner was armed with the rod with which the beatings were given to the injured. It has been contended on behalf of the petitioner that there is no incriminating evidence available with the prosecution to connect him with the alleged commissioning of the offence. It has been further

submitted that challan in the instant FIR stands presented to Court on 21.10.2024 and charges are yet to be framed and the petitioner is in custody for the past 06 months and 07 days.

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 five other cases.

4. **Analysis**

Be that as it may, considering the custody period i.e. 06 months and 07 days for which the petitioner has suffered incarceration; no incriminating material is available with the prosecution to connect the petitioner with the alleged commissioning of the offence in addition to the fact that investigation is complete, challan stands presented to Court on 21.10.2024, charges are yet to be framed and prosecution witnesses are yet to be examined, 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 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.

04.03.2025

Poonam Negi

**(SANDEEP MOUDGIL)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*