



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11447-2025
DECIDED ON: 06.03.2025

PARDEEP @ TIGER

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Nisha Rana, Advocate with
Ms. Anmol Thakur, 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 seeking grant of regular bail in FIR No.360, dated 06.12.2024, under Sections 109(1), 115, 190, 191(3), 351(3), 50, 54, 333 of BNS Act, Section 25/54/59 of Arms Act, registered at Police Station Faridabad Old, Haryana.

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

“That I, am Vakil Qureshi, resident of House No. 234, Ward No. 8, Sarai Khairati, Old Faridabad. I am 25 years old. I have a meat shop in the Meat Market. Today on 06.12.2024 at 11.57 AM I received a call on my MOB NO 9871219686 from 7011346424, who started threatening me to kill me and started abusing me. And

sald that today I am coming to your shop to kill you. In this regard, I had given an application (in Police Station OLD FBD) against (1) Attu S/O Satish (2) Pradeep alias Tiger. After that today on 06.12.2024 at around 2.00 PM, I was at my shop. (1) Pradeep alias Tiger resident of Bhudhena came with a pistol in his hand with him (2) Salman Qureshi S/O Mubeen Qureshi currently resident of Sai 86 came with a pistol in his hand (3) Jafar S/O Kammu (4) Bhubin S/O Kammu and (5) Attu S/O Satish resident Old Bazar Faridabad and (6) Sonu alias Tiger resident of Bhudhena and with them 20-30 other people came to Bagreha with weapons in their hands. And these people attacked us. In which (1) Pradeep alias Tiger (2) and Salman S/O Mubeen Qureshi both had pistols in their hands and they fired at my father Vakil Qureshi with the intention to killing him. The bullet hit his leg and Jafar, Mubeen and Attu, Sonu these people fired at my uncles. In which my uncle narrowly escaped. And the other people there attacked my house with weapons. My grandmother was seriously injured in the attack by the attackers. Seeing the attackers, a huge crowd gathered there and seeing the crowd, the attackers fled from the scene brandishing weapons, we hurriedly took our father to the hospital. It is my humble request to you that strictest legal action be taken against the said culprits. And we are in danger to our life and property from these people, hence you are requested to provide us security. Your kindness will be appreciated. Thank you Applicant Anwar S/O Wakeel Qureshi MOB-9871219686. DATE 06.12.2024 TIME-6.46 PM. Action Police Today on 6.12.2024, I am ASI present at Police Station, t Faridabad, that information was received from Police Control Room, Faridabad that a bullet has been fired during a fight in Meat Market Old Faridabad, on which

information, I ASI along with HC Surendra 722, CI Sachin 6200, SPO Rajneesh 782 reached the spot of incident, Meat Market Old Faridabad, where a large crowd had gathered. The persons present at the spot were questioned about the fight, who told that some persons had come here, who fought and shot and ran away. Regarding this incident, I ASI informed SHO Sahib about the incident and SHO Sahib along with staff along with government vehicle HR51GB3029 Bolero driver CT Kapil have arrived at the spot of incident, Meat Market Old Faridabad and the spot of incident was inspected by SHO Sahib and the crime team was seen by ASt was also informed about his arrival at the spot, Meat Market, Old Faridabad, and the spot was secured by HC Surendra No 722. Faridabad. In connection with the incident, two ruqa were received from Doctor Sarvodaya Hospital, SEC 19, which ASI, on this information, Reaching Sarvodaya Hospital, SEC 19, Faridabad, MLR NOM-106003332400568 dated 6.12.2024, 3187/VP/2024 dated 6.12.2024 of Vakil Qureshi was received, Doctor sahab has written about one injury ON LEFT THIGH ABOUT 1X1 CIRCULAR WOUND NOTED INUPPER PART AT LATERAL ASPECT, and the MLR NOM-106003332400569 Date 6.12.2024, 3185/2024/AC Date 6.12.2024. With regard to Nafeesa, doctor sahab has filed a report of an injury which is No. 1 ABRASION WITH SWELLING OVER UPPER CHEST PRESENT, and 2 application given to doctor by taking opinion of victim Vakil Qureshi and Nafeesa in which doctor wrote UNFIT FOR STATEMENT to both the victims and son of victim vakil Qureshi who told that being an eyewitness of the spot of incident, From contents of the complaint and MLRS, prima-facie offence punishable under section

*191(3), 190, 115(2), 109. 351(3) BNS 25-54-59
ARMS.ACT was made out.”*

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that no fire arm injury has been attributed to the present petitioner as the same was attributed to co-accused Vakil Qureshi. He further contends that co-accused namely Deepanshu, Salman Qureshi, Tushar, Sameer Salmani have already been granted the concession of regular bail by this Court vide orders dated 27.01.2025 (Annexure P-2), 29.01.2025 (Annexure P-3), 22.01.2025 (Annexure P-4) and co-accused namely Sonu has already been granted the concession of anticipatory bail by this Court vide order dated 27.01.2025 (Annexure P-5) passed in CRM-M-4153-2025.

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 submits that no fire arm injury has been attributed to the petitioner and only danda has been recovered. He seeks dismissal of the instant petition on the ground that the petitioner is involved in another case meaning thereby he is a habitual offender.

4. **Analysis**

Be that as it may, considering the custody period i.e. 02 months and 29 days for which the petitioner has suffered incarceration and the fact that no fire arm injury has been attributed to the petitioner as has been argued by learned State counsel and therefore, it can be well inferred that

Section 25 of Arms Act is not made out against the petitioner. As far as the

nature of other injuries is concerned as to whether the petitioner has caused the same is also disputed having no specific injury attributed to him.

In addition, investigation is complete, challan stands presented to Court on 04.03.2025, charges are yet to be framed and total 25 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.

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.

06.03.2025

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No