

220

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

CRM-M-10940-2025

DATE OF DECISION: 27.03.2025

DALJIT SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. J.S. Ghumman, Advocate for the petitioner(s).

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

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This petition has been filed under Section 483 BNSS 2023 with a prayer for grant of regular bail to the petitioner in FIR No.92 dated 18.07.2024 U/s Section 103(1) BNS (deleted) & Section 105 BNS added registered at Satnampura, (Annexure P-1) District Kapurthala.

2. Prosecution story set up in the present case as per the version in the FIR reads as under :-

‘Statement of Vipin Kumar S/o Harbans Lal R/o Navi Abadi Narangshahpur PS Satnampura Phagwara district Kapurthala age about 29 years mobile number 7087892370 stated that I am a resident of the said address & on 17.07.2024 at 11 pm Dilpreet Jhali S/o Jagtar Kumar told me that my scooter has run out of petrol which is standing in front of Navi Abadi Narangshahpur & asked me to get petrol from the petrol pump. I took my friend Rajesh Kumar S/o Malkit Kol & got one litre of petrol from the nearby Sugar Mill Chowk Jalandhar & we both knew each other. 4-5 persons were riding in an Innova vehicle near the bus stand. When the vendor started giving us cigarettes one of those people



took the cigarettes from us. When we asked the reason they all started pushing & shoving us. After some time due to the arrival of two policemen all those persons escaped with the vehicle. We also went to Navi Abadi Narangshahpur on our motorcycle. When we reached near Mast Nagar Tavern the Innova car came behind us. We stopped our motorcycle on the side. At that time Lucky & Dilpreet Jhali S/o Jagtar Jhali both R/o village Narangshahpur were next to us. The Innova & went to Narangshahpur. They turned the car around & brought it at a very high speed towards me & Lucky. Lucky died on the spot & my left shoulder bone was broken & left leg was bruised. Those persons then turned the vehicle back towards Hadiabad & drove the vehicle at high speed towards us tried to hit us. We saved our lives by standing next to the electric pole. My younger brother i.e. Sandeep Kumar & other persons of our village arranged the vehicle & Lucky was taken to CH Phagwara & later many people from our village gathered there. After arranging a vehicle I was admitted to the CH where I came to know that Lucky had died. I was just undergoing treatment at the CH when I came to know that the Innova number PB-09-X-6690 which was driven by Daljit Singh S/o Balwinder Singh R/o Dhanda PS Goraya District Jalandhar & Sunny S/o Harjinder Kumar R/o Atholi PS Satnampura District Kapurthala was sitting on the co-driver seat. Ravi Kumar S/o Garib Das R/o Atholi PS Satnampura was sitting in the back seat & Harpinder Singh S/o Teja Singh R/o Dhanda PS Goraya District Jalandhar was sitting in the back seat. Legal action should be taken against them. I have got my statement recorded & I have heard it. Have read it. Is correct Sd/- Vipin Kumar.'

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. He submits that the alleged incident took place for which a version and cross-version has been registered. He further submits that the complainant party was the



real aggressor party and the deceased person was killed only due to the panic that set in as the petitioner was attacked by them and in order to rescue himself from the complainant party by driving the car at fast speed and the alleged incident took place. He has argued that the antecedents of the petitioner are clean, moreso, the investigation in this case is complete as challan stands presented on 16.10.2024, however, charges are yet to be framed and 18 PWs cited by the prosecution are yet to be examined, which is sufficient to infer that the conclusion of trial is likely to take considerable time, therefore, prays for grant of regular bail to the petitioner.

On behalf of the State

On the other hand, learned State Counsel appearing on advance notice, accepts notice on behalf of respondent-State and has filed the custody certificate of the petitioner, which is taken on record.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the petitioner along with co-accused persons not only caused death of one innocent person by crushing him under the tires of Innova car but also caused injuries to other persons also.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 8 months and 5 day, antecedents of the petitioner are clean, meaning thereby he is not a habitual offender, and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt, whereas in the instant case, challan stands presented on 16.10.2024, however, charges are yet to be framed and 18 PWs cited by



the prosecution are yet to be examined which is sufficient for this Court to infer that the conclusion of trial is likely to take considerable time and therefore, detaining the petitioner behind the bars for an indefinite period would solve no purpose.

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 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 aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

27.03.2025
anuradha

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