



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

CRM-M-11371-2025

Date of Decision:08.04.2025

**DILBAGH SINGH ALIAS SAHIB
Vs.**

...Petitioner

STATE OF PUNJAB

...Respondent

CORAM:- HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Amit Arora, Advocate for the petitioner.

Mr. J.S. 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. 0233 dated 17.11.2024 under Sections 103(1), 191(3), 190 BNS, 2023, and Section 25(6) of Arms Act, 1959, (Sections 61(2), 351(2) (3) and 249 BNS added later on) registered at Police Station Jhabhal, District Tarn Taran, Annexure P-5.

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

“Statement of Baljinder Singh son of Pratap Singh Sarpanch resident of village Lalu Ghuman Police Station Jhabhal District Tarn Taran aged about 46 years Mobile No.88474-72305. It is stated that I am resident of the above-mentioned address and used to do agriculture work. Today on dated 17.11.2024 my father Partap Singh Sarpanch son of Gian Singh resident of village Lalu Ghuman aged about 75 years in the morning has gone to the house of Bhagwant Singh son



of Mahinder Singh resident of village Lalu Ghuman as bhog ceremony for the death of his mother was fixed for today and on completion of the rasam of bhog and after having the meal my father Pratap Singh Sarpanch along with his friend Budh Singh son of Kalyan Singh resident of village Lalu Ghuman started from the house where bhog ceremony was performed towards the house of Budh Singh abovesaid for taking his motorcycle and on the way at about 1:30 pm one unidentified person who was armed with two pistols came on his motorcycle and started firing gunshots upon my father. My father Partap Singh Sarpanch fell down and one gunshot hit in the leg of Budh Singh and in the meantime Bhagwant Singh son of Mahinder Singh resident of village Lalu Ghuman whose mother's bhog was there and other persons came running and the said unidentified person fired gunshots upon them also. This entire incident has been given result due to the election for the post of Sarpanch of my father Pratap Singh Sarpanch by the opposite party namely Bikramjit Singh son of Wassan Singh, Nishan Singh son of Desa Singh, Ranjit Singh son of Jaswant Singh, Desa Singh son of Sulakhan Singh, Balram Singh son of Harbhajan Singh residents of village Lalu Ghuman and they have given result to the said incident as since the time of the elections of the Sarpanch they used to get the threatening calls from Amritpal Singh Bath resident of village Mianpur and along with him Ranjit Singh @ Rana son of Vasan Singh resident of village Lalu Ghuman at present Canada was also giving threatening to us through phone since the time of elections and stated that they will not allow us to live in the village. That the pistol of the unidentified person fell down while he was going back which has been taken by you in your possession. My father Partap Singh Sarpanch has got expired due to the gunshot injury at the spot itself and Budh Singh son of Kalyan Singh has been taken to the hospital for treatment. That the strict legal action may kindly be taken against the aforesaid persons who have



got killed or got killed my father by firing gunshots upon him. That the justice be got done with us for the murder of our father. This entire incident has been got witnessed by me, Budh Singh and Bhagwant Singh. Statement has been got recorded which has been read over and same is admitted to be true. Sd/ Baljinder Singh Baljinder Singh abovesaid, attested by Paramjit Singh INSP/SHO Police Station Jhabal dated 17.11.2024.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has not been nominated as an accused in the FIR at the first instance rather has been nominated as an accused on supplementary statement of the complainant recorded on 19.11.2025 i.e. after 2 days of the occurrence which clearly shows that the same is an after thought and has been named with intention to name more and more persons from the opposite party. He further submits that the petitioner has been nominated as an accused in the present FIR due to political vendetta as the petitioner belongs to the opposite party. He further submits that similarly situated co-accused, namely Nishan Singh, Ranjit Singh, Bikramjit Singh and Desa Singh have been granted concession of anticipatory bail vide orders dated 13.01.2025, 28.01.2025, 06.02.2025 & 21.02.2025 (Annexures P-1, P-2, P-3 & P-4 passed in (CRM-M-1119-2025, CRM-M-4642-2025, CRM-M-6876-2025 & CRM-M-9000-2025) respectively.

On behalf of the State

Learned State Counsel appearing on advance notice, on instructions, vehemently opposes the prayer for grant of concession of



anticipatory bail stating that there are allegations of conspiracy for killing a person and seriously injuring the other victim due to political rivalry.

4. **Analysis**

Considering the custody period undergone by the petitioner i.e., 04 months and 16 days, wherein investigation is complete, challan stands presented on 14.02.2025, charges are yet to be framed and total 22 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*** 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. **RELIEF**

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

08.04.2025

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No