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2025:PHHC:034023



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

**CRM-M-11805-2025
DECIDED ON: 11.03.2025**

HARDEEP SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Navjot Singh, Advocate and
Mr. Kishan Garg, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG Punjab

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court has been invoked for the 3rd time under Section 483 BNSS, 2023, for grant of regular bail to the petitioner in FIR No.122, dated 13.05.2020 (Annexure P-1), under Sections 302, 427, 148, 149 and 120-B IPC and Section 25 of the Arms Act, 1959 (Challan presented under Sections 302, 201, 427, 148, 149 and 120-B of IPC and Sections 25, 54, 59 of Arms Act) registered at Police Station Lehra, District Sangrur, Punjab.

2. Facts

Facts as narrated in the FIR reads as under:-

“Copy of statement, statement of Paramjit Kaur, D/o Sukhpal Singh, caste Jatt, resident of Khandebad, P.S Lehra, aged about 23 years, mobile no. 89209-69000, stated that I am resident of

above mentioned address and doing a house hold work we have one brother and two sister, my brother name was Lovepreet Singh alias Kalu, aged about 25 years, who is doing a work of agriculture and from the last two months he was married with Loveena, resident of Ludhiana, my sister Sandeep kaur is married with Binder Singh S/o Rajmohinder Singh, resident of Ladhal, and now my sister Sandeep Kaur and brother-in- law Binder Singh along with their children came to our village Khandebad with us due to the vocations in school. Yesterday on dated 12.05.2020 my brother Lovepreet Singh alias Kalu, received call from Lakhwinder Singh alias Lakhi son of Darshan Singh at about 09:30 PM who told my brother Lovepreet Singh alias Kalu that I am going to consume medicine you came my house. This incident was disclosed by my brother Lovepreet Singh to both sisters and brother in law Binder Singh. We tried to stop my brother not to go at night time, but he did not stop and despite our insistance and from our house on our scooter TVS, Colour white, no. PB-72-A-2087 went to the house of the Lakhwinder Singh alias Lakhi. Then he did not came to house when we try to contact on the mobile phone no. 77172-58064 of my brother Lovepreet Singh alias Kalu, but he did not picked the phone and we become nervous. Thereafter, my brother in law Binder Singh tried to search my brother neared to the village, but he did not found anywhere, then time about 01:30 AM, morning on dated 13.05.2020 one unknown person came to our house who enquire with regard to Lovepreet Singh alias Kalu returning home, but we gave answer in a 'No' and stated that Kalu did not came home. We enquired his name who disclosed his name Mangu Singh and village Ramgarh and by saying this he went from our house, then again at about 02:30 AM three unknown youngsters in one motorcycle came to our house who stated that Lovepreet Singh alias Kalu is lying in Grain Market, Kal Banjara due to injuries and you took him. When my brother in law Binder Singh along with son of my uncle namely Harwinder Singh son of Sukhwinder

Singh neighbour Pargat Singh son of Kaka Singh went to the Grain Market Kal Banjara where my brother Lovepreet Singh alias Kalu was murdered by inflicting injuries with sharp edge weapons on his neck, mouth, year and jaw and other injuries. He was in pool of blood and was lying there and his scooter in a damaged condition was also lying there and the pair of his slipper was also lying there and two cartridges of point 32 Bore Pistol was also lying there at the spot. Then my brother in law Binder Singh for the protection of dead body leave there Harjinder Singh and Pargat Singh and came to our house to inform us and my Brother in law Binder Singh after coming to house disclosed entire thing to us. Then at our own level we enquire the matter and we came to know that my brother Lovepreet Singh alias Kalu is murdered by Sanju Pandit son of Kala Ram, Jaspreet Singh alias Jassi son of Sansi Singh, Mani son of Harmeet Singh, Bindi son of Naranjan Singh, resident of Jalooa, Harjot Singh son of Dev Singh Halwai, Harwinder Singh alias Billa son of Malkit Singh Chaharia resident of Kal Banjara, Lali, Khushi, resident of Lehal Kalan and some other unknown persons by coming on vehicles with connivance of Lakhwinder Singh alias Lakhi son of Darshan Singh Caste Jatt, resident of Khandebar, Jagtar Singh alias Member son of Gurmeet Singh, Gaggu alias Langda son of Gurmeet Singh, Mangu singh son of Mithu Singh, resident of Ramgarh, Balram Singh alias Ballu son of Gian Singh resident of Bhutal Kalan, P.S Lehra, on dated 12.05.2020 at about 11:00 PM, because above accused Lakhwinder Singh alias Lakhi and above with their common intention called my Brother Lovpreet Singh alias Kalu from his residence and my brother Lovepreet Singh alias Kalu above is murdered by accused Sanju Pandit and others along with their respective weapons. Because of this above by taking legal action against Sanju Pandit, Jaspreet Singh alias Jassi, Mani, Bindi, Hardeep Singh, Lali, Khushi, Harwinder Singh Billa, Lakhwinder Singh Lakhi, Gaggu, Mangu, Jagtar Singh alias Member and

Balram Singh alias Balli and other unknown persons and justice be given to us. Today I along with my Brother in law Binder Singh above going to Police Station Lehra you met me near Bus Stand near Kal Banjara, please take legal action against above accused persons. sd/- by Paramjit Singh above identified by Binder Singh, attested by. Surinder Singh main officer P.S Lehra Dated 13.05.2020. Police proceedings, today I SI/SHO along with ASI Malkeet Singh, ASI Jagsir Singh C Satgur Singh 1429, PHG, Naranjan Das 48166 in a Government vehicle no. PB-13-AW-4120 being driven by C Gobind Singh 101 regarding patrolling and checking present near Bus stand Kal Banjara, then Paramjit Kaur D/o Sukhpal Singh caste Jatt, resident of Khandebad along with his brother in law Binder Singh son of Raj Mohinder resident of Laldal, P.S Lehra by presenting before me registered their above complaint. After writing and hearing admitted to be true and correct in which after taking printout from the printer to be signed and attested the same. Statement was being attested by me. According to the above statement the offences are made under section 302, 427, 148, 149, 120-B and 25/54/59 to be found. According to the statement the case is registered against above Sanju Pandit, Jaspreet Singh alias Jassi, Mani, Bindi, Hardeep Singh, Lalli, Khushi, Harwinder Singh alias Billa, Lakhwinder Singh alias Lakhi, Guggu, Mangu, Jagtar Singh alias Member. Balram Singh alias Ballu and some unknown persons sent through C Satgur Singh 1429 for the registration of case in P.S Lehra. After registration of case FIR no. be informed. Special reports be issued. Control Room Sangrur be informed. I SI/SHO along with police party along with Paramjit Kaur and Binder Singh above I am leaving at the spot. In the Jurisdiction of Bus Stand Kalbanjara time 3:00 PM sd/- Surinder Singh main officer P.S Lehra. Dated 13.05.2020..After receiving statement FIR no. above as per offences above registered against above accused in the computer, record completed. Original statement along through HC Satgur Singh 1429, sent before SI Surinder Kumar

SHO P.S. Lehra at the spot. FIR as a special report through HC Arvinder Singh 243, sent before senior officials. In charge control room Sangrur is going to be informed through e-mail.”

3. Contentions:

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been named in the supplementary statement of complainant and no specific role has been attributed to him. He further submits that petitioner is in custody since 08.06.2020, wherein challan stands presented to the Court on 11.08.2020, charges have been framed on 24.03.2022 and since then only 1 prosecution witness has been examined out of total 30. He asserts that the petitioner is not involved in any other case, meaning thereby he is a person of clean antecedents.

On behalf of the State

On the other hand, learned State Counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for 4 years, 9 months and 3 days. He prays for dismissal of the present petition stating that the allegation against the petitioner are serious in nature. To the delay of trial, he has no explanation, but seeks time to get instructions, which absolutely will be a futile exercise.

4. Analysis

Considering the custody period undergone by the petitioner i.e., 4 years, 9 months and 3 days and is not involved in any other case, as is evident from the perusal of the custody certificate, meaning thereby he is a person of clean antecedents added with the fact that after framing of charges on 24.03.2022 only 1 prosecution witness has been examined out of total 30. This Court is sanguine of the fact that conclusion of trial shall take long 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. **Relief:**

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

11.03.2025

Meenu

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