



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13784-2025
DECIDED ON: 07.04.2025

DARSHAN SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sanjay Verma, Advocate for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked for the second time under Section 483 of Bhartiva Nagarik Suraksha Sanhita, 2023 (BNSS) for the grant of concession of Regular bail to the petitioner in case FIR No. 457 dated 24.11.2024 u/s 191(3), 190, 115(2), 117(2), 333, 324(5), 287, 351(3), 231, 233, 238 BNS & 25 Arms Act, Police Station Chandhut, District Palwal.

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

“It is submitted that 1, Tahal Singh son of Shri Khajan Singh, age 68 years, am permanent resident of village Chandigarh, district Gautam Buddh Nagar (U.P.) and for the last one year I am living with my son Gurmeet in a two-storey house built on the agricultural farm of Jaiprakash son of Shri Balikram resident of village Bagpur Kalan, tehsil and district Palwal situated in Nangaliya, tehsil and district Palwal. I and my son

Gurmeet Singh take care of agriculture and farm. Our ancestral house is located at a distance of about 200 meters from the above agricultural farm. This agricultural farm has about four and quarter acres of agricultural land, which is surrounded by cemented boundary walls on all sides and has a gate. Against the above- mentioned persons, an FIR No. 00146 dated 01- 04-2024 under section 148/149/323/326/506 IPC has been registered in Police Station Chandhut. Due to which the above-mentioned accused are having a grudge against us and the owner of the said agricultural farm- Jaiprakash. On the evening of 20-11-2024 at about 5.00 pm, my son Gurmeet Singh had gone from the farm house to our ancestral house for some important work and I had gone to buy tobacco from a shop near the agricultural farm and the gate of the farm house was left open. During this time, from behind us, all the above accused Sukhwinder son of Darshan Singh, Darshan Singh son of Sohan Singh, Manjit son of Darshan Singh, Gyan son of Darshan Singh, Biro Bai wife of Darshan Singh, Seema wife of Manjit Singh, Kulwinder Kaur wife of Sukhwinder and Karamjit Kaur wife of Gyan Singh, residents of village Nangaliya, Tehsil and District Palwal, conspired with each other, armed with weapons like stick, iron rod, revolver, sharp sword etc. in their hands, forcibly entered the farm house and up the stairs of the house and reached the first floor and broke the CCTV camera installed on the first floor. During this time my son Gurmeet Singh came back from our house to the farm and I also reached the farm house after taking tobacco. We saw that the accused, armed with weapons, had climbed to the first floor of the two-story house built in the farm house and broke the CCTV camera and were vandalizing more. When we stopped the accused from doing so, the accused attacked us with the intention of killing me and my son Gurmeet Singh. Sukhwinder hit the iron rod on the right side of Gurmeet Singh's head, due to which Gurmeet Singh's head was ruptured and he was covered in blood. Kulwinder Kaur armed with stick hit the stick on the right shoulder of Gurmeet Singh. When I tried to save my son

Gurmeet Singh, Darshan Singh armed with iron rod hit the iron rod on the right side of my head, due to which my head was ruptured and I fell down covered in blood. Manjeet hit the stick on my right shoulder. The rest of the accused, kicked and punched me and my son Gurmeet Singh. When we shouted for help, our family members came to the spot. Seeing them coming, Gyan Singh fired in the air with the revolver to create an atmosphere of fear and the accused fled away by waving their weapons threatening to kill us if they got another chance. I informed the owner of the Farm House Jaiprakash about this incident on phone and Jaiprakash informed the Baghpur Police Station about this fight, on which the police reached at the spot and after the arrival of the police, Jaiprakash also reached at the spot. The police said that first get the injured treated and medically examined. After this, Jaiprakash and Babu resident of Mohana put me and my son Gurmeet Singh in the car and took us to the General Hospital Palwal where the doctor Sahab, after medically examining our injuries, took our MLR and advised for our CT scan, on which our CT scans were done. In the CT scan, a fracture was found in the parietal bone of my son Gurmeet Singh's head. Due to serious injuries, my son Gurmeet Singh was referred to Safdarjung Hospital, New Delhi, but my family admitted Gurmeet Singh to Akod Hospital, Faridabad, where I was getting my son Gurmeet Singh treated. Till now I was busy getting my son treated, now I have come to the Chowki with my and my son Gurmeet Singh's MLR and CT scan reports. Therefore, it is requested to you that a case should be registered against the above culprits and strict legal action should be taken and our life and property should be protected and we should be given justice.”

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and there is an inordinate

delay of 04 days in lodging the instant FIR as the occurrence took place on 20.11.2024 whereas the instant FIR was registered on 24.11.2024. He further asserts that the two pending civil litigation before the Civil Judge are the motive behind the present litigation which is only an arm twisting mode. He further contends that the petitioner has been enduring multiple disabilities, including blindness and mental retardation, for a long time, and has been declared 50% mentally retarded by the Civil Surgeon, Faridabad. It has been contended on behalf of the petitioner that he is a man of clean antecedents as he is not involved in any other case.

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 applicant along with other co-accused persons, attacked on the farmhouse of the complainant and damaged the CCTV camera and caused injuries to the complainant namely Tahal Singh and his son.

4. Analysis

Be that as it may, considering the fact that the petitioner has been enduring multiple disabilities, including blindness and mental retardation, for a long time, and has been declared 50% mentally retarded by the Civil Surgeon, Faridabad and also the fact that the petitioner is not a habitual offender as he is not involved in any other case, as is evident from custody certificate in addition to the fact that investigation is complete, challan stands presented to Court on 02.04.2025, charges are yet to be framed and total 11 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.

5. **RELIEF:**

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.

07.04.2025*Poonam Negi***(SANDEEP MOUDGIL)
JUDGE***Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*