

2025:PHHC:037664



249 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13820-2025
DECIDED ON: 19.03.2025

PARGAT SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Manjit Singh Uppal, Advocate with
Mr. Arun Kumar, Advocate
for the petitioner.

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

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This petition has been filed under Section 483 Bharatiya Nagarik Suraksha Sanhita, 2023, for grant of Regular bail to the petitioner in FIR No. 15 dated 16.01.2024 under Sections 302/459/323/325/506/148/149 IPC, (Section 302/325 added lateron) registered at Police Station Sadar Mansa, District Mansa, Punjab.

2. Facts

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

‘Copy of statement of Jagtar Singh s/o Bogha Singh s/o Chanan Singh r/o Saharna age about 48 years, M.no. 98722-25650, states that I am resident of above mentioned address, I am doing agricultural work. We are two brothers, I am the elder one and the younger one is Jagmail Singh, after selling my house at village, I constructed my house at Phirni, my brother is residing in a house at a village and he has two

children, boy and girl. On 13.1.24 on the day of Lohri, I and my brother Jagmail Singh were standing near the bonfire at village's common place and at that time Pargat Singh s/o Jagroop Singh and Jagroop Singh s/o Gurdev Singh r/o our village, were also warming their hands near the bonfire. Jagroop Singh had alcohol. He had arguments with my brother. Thereafter I went to drop my brother at his house and we both were talking with each other in the room next to the gate of house, the time was about 8.30 PM, the bulb at the gate was on. Pargat Singh s/o Jagroop Singh having Gun, Baljit Singh s/o Jagroop Singh having Kirpan, Jagroop Singh s/o Gurdev Singh having iron rod, Jagga Singh having Kirpan, Balkar Singh having Kirpan, sons of Sukhdev Singh, Jeet Singh s/o Seera Singh having handle of hand-pump, Pargat Singh alongwith 8-9 unknown persons entered our house and raised lalkaras, you be teach a lesson for abusing, when my brother came out of room than Baljit Singh gave kirpan blow on the forehead of my brother and Jagroop Singh gave two blow on the left leg of my brother with the iron rod, Jeet Singh gave blow on the right leg of my brother with handle of hand-pump then my brother fell at the door, while lying on floor, Balkar Singh with the intention of killing, gave blow with Kirpan towards the neck of my brother, which hit on his left Jaw then Jagga Singh with the intention of killing, gave Kirpan blow, which hit on head of my brother, when I and the wife of Jagmail Singh raised voice "na-maro-na-maro" than Pargat Singh pointed the Gun towards us and thereafter all went from there by saying he is finished. Thereafter 5-6 persons stands guard at the gate and all other climbed the rooftop of house of Jagroop Singh and said that we will not allow him to be taken to hospital and if any person from village comes than we will kill him, I called my relative Jassa Singh r/o Lakhmirwala at the spot, he was not allowed to come near the house than I dialed 100 and the police rapper vehicle from Kotdharmu sounded hooter and than all the persons ran away from spot, due to injuries much blood bleed out, if we had not picked him for some more time than he would have died at the spot, statement recorded to you, heard the same, same is true, Sd/- Jagtar Singh, attested by ASI Gurdarshan Singh, 654/Mansa, Police Station Sadar Mansa, Dated 16-1-2024."

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 as there is unexplained delay of 3 days in lodging the FIR and he was not named in the present FIR and the only allegation against the petitioner is that he raised 'Lalkara'. He contends that the deceased Jagmail Singh did not succumbed to the alleged injuries and died after 47 days of the alleged occurrence on 11.02.2024 due to septicemia. Moreover, no injury has been attributed to the present petitioner.

On behalf of the respondent-State

On the other hand, learned State Counsel appearing on advance notice, has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for the last 1 year, 1 month and 8 days.

Learned State Counsel opposes the prayer for grant of regular bail stating that the deceased succumbed to the injuries inflicted by the petitioner and co-accused but is not in a position to controvert the submissions made by learned counsel for the petitioner. Moreover, the petitioner is a habitual offender, as he is involved in various other cases under IPC.

4. **Analysis**

Be that as it may, from the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. one year, one month and 8 days, there is unexplained delay of 3 days in lodging the FIR and initially was not named in the present FIR and was roped later on 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 08.05.2024 and after framing of charges on 26.09.2024 out of total 20 prosecution witnesses, only one PW has been examined so far 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.

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 lend the petitioner in a situation of denial the concession of bail.

5. Decision:

In view of the 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/Chief Judicial Magistrate/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.

19.03.2025

(SANDEEP MOUDGIL)
JUDGE

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Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*