



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-11645-2025 in/and
CRM-M-14103-2025
DATE OF DECISION: 20.03.2025

CHETAN ALIAS CHINTU

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Balvinder Sangwan, Advocate for the petitioner(s).
Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

CRM-11645-2025

This application has been filed for placing on record
certain documents as Annexure P-6.

For the reasons recorded in the application, the same is
allowed and documents as Annexure P-6 is taken on record.

1. Prayer

This petition has been filed under Section 483 of BNSS,
2023 for grant of regular bail in FIR no. 204 dated 30.04.2021 u/s 307,
506, 34 of IPC and S. 25 of Arms Act P.S. Adarsh Nagar Ballabgarh,
District Faridabad (i.e. Annexure P/1).

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

*‘Statement of Khemchand s/o Ompal resident of Subhash
Colony Near Lal Kothi Subhash Colony Ballabgarh*



Faridabad, stated that I am a resident of the above mentioned address and work as a delivery boy in Jio Mart. We are two brothers and two sisters. Today I along with my friend Sagar S/O Rishipal R/O Shahpur Kalla district Feridabad were coming on my motorcycle No. HR29AS8831 HONDA from Chandawali bridge towards Ballabgarh. At around 5.30 PM, when I and my friend reached LOKDEEP SCHOOL Mohana Road, three boys whose names and addresses are not known, on their bike CT 100 army. color, no. don't know. They came riding on a motorcycle and started going ahead of us. At that I was the driver on the motorcycle. Those three boys, name and address are not known, suddenly turned their motorcycle towards us. I said that you could have given an indicator before turning your motorcycle. All three boys started abusing me and got down from the motorcycle and slapped me. All three boys, name and address are not known, got angry ai..i took out a country made pistol from under the belt of their pockets and fired at my friend Sagar. My friend Sagar pushed him away and the second one shot me on the side of the knee of my right leg with the country made pistol that he was holding in his hand. The third boy also fired from the country made pistol that he was holding in his hand. Seeing the crowd gathering, all three boys rode their motorcycle CT 100 and fled towards Chandawali bridge. My friend Sagar admitted me to the Government Hospital, Ballabhgarh for treatment. Strictest action should be taken against the three boys, name and address are not known, Government Hospital I wrote the statement in Ballabgarh, I read it, I heard it, it's okay, I don't know my name and address, the boys shot me with the intention of killing me. SD-KHEMCHAND S/O OMPAL, 30.04.2021 ATTESTED SI JAMIL AHMED PS ADARSH NAGAR BLB FBD Action Police received an information today from the police station that a shot has been fired on Mohana Road in front of Lokdeep School, and a person riding a motorcycle has been shot in his leg. On this information, SI



along with HC Bedaram, CT Narendra 2311, SI Ankit 4021 reached in front of Lokdeep School and inquired, it was found that the motorcycle rider is INJURED admitted in GH Ballabgarh. I SI along with my staff reached GH Ballabgarh, where victim Khemchand S/O Ompal R/O resident Near Lal Kothi Subhash Colony Ballabgarh met me outside the hospital gate. MLR NO. RL/BLB/280/2021 of Khemchand DT 30.04.2021 was presented and got his attention marked, the statement marked with attention of the complainant was written letter by letter and was read out and explained, whoever heard it, understood it and considered it correct and put his signature below his statement. The letters were written in English which has been verified by the SI. MLR No. RL/BLB/280/2021, as per the statement of Khemchand, the crime under 307,506,34 IPC and 25-54-59 A Act is found to be involved, hence, the written complaint for the registered case is lodged with constable 4021 at the police station, after which, the registered case no. be informed through the form and a special report of the case be sent to the service of the concerned officer through special vehicle, the SI along with his staff is leaving for the spot of incident. Today-GH Ballabgarh SD-JAMIL AHMED SI PS ADARSH NAGAR BLB FBD DT 30.04.2021 AT 06.50PM On the complaint, FIR No. 204 dated 30.04.2021 under sections 307,506,34 IPC and 25-54-59 Arms Act was registered at Police Station Adarsh Nagar Ballabgarh and computerized copies of the FIR were prepared, which are being sent as special report of the case to the Area officers of Special Constable Mahipal 1241 and Area Magistrate. Constable was sent to the spot with the copy of the complaint along with the original complaint. DUTY OFFICER HC PRAVEEN 372 I/O SI JAMIL AHMED 1703.



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 on the basis of his own alleged disclosure statement in a different FIR No. 223 dated 23.05.2021 registered at P .S. Adarsh Nazgar, Ballabgarh, Faridabad. He submits that PW-1-Khemchand has turned hostile and his deposition has been already annexed with the application. He further submits that the petitioner was not present at the place of occurrence which took place on 30.04.2021, moreso, in the presnet FIR, challan stands presented on 02.10.2021 charges stands framed on 17.12.2021 out of 31 prosecution witnesses, only 1 PW has been examined so far which is sufficient to say that conclusion of the trial will take long 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. According to which, the petitioner is behind bars for 1 year, 11 months and 5 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the petitioner is a habitual offender as he is involved many other FIRs also but is not in a position to controvert the submissions made by learned counsel for the petitioner.



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. 1 year, 11 months and 5 days, complainant has already turned hostile 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 02.10.2021 charges stands framed on 17.12.2021 out of 31 prosecution witnesses, only 1 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 land the petitioner in a situation of denial of the concession of bail.

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

20.03.2025
anuradha

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