

2025.PHHC:038958



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

**CRM-M-14413-2025
DECIDED ON: 21.03.2025**

MANISH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Alisha Soni, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG Haryana

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This petition has been filed under section 439 Cr.P.C. for grant of regular bail in FIR no.266 dated 30.07.2023 Police Station Sadar Ballabgarh, District, Faridabad Under Section 147/148,149 323/506/379B and section 325 of IPC added Later on by the police and 25/54/59 of Arms Act 1959 (Annexure-P-1) per the facts and circumstances of this case, in the interest of justice.

2. Facts

Facts as narrated in the FIR reads as under:-

“To, The SHO, Police Station Sadar Ballabhgarh, Subject:- To Lodge the FIR against dispute. Sir, I Sagar son of Ramratan, resident of village Fatehpur Billoch. That my nephew Chhavikant

was admitted in Q.R.J. Hospital, and Sagar and my mother Shakuntala withdrawal Rs. 1 lac rupees from Sarva Haryana Bank at around 10:15 in the morning, and me and Vikas S/ Pawan took him to the hospital on motorcycle. Where I gave Rs. 30,000/- to my brother Gopal to deposit in the hospital and remaining Rs.70,000/- were with me. Vikas and Sagar left the hospital at around 6% Clock in the evening for home and my brother Nitin and Gopal stayed in the hospital. At around 7:30 in the night, Vikas and Sagar was going near transformer near Durga temple in Village Fatehpur Billoch where Mohit son of Kandi who aimed with (Katta) Pistol on us and Vikas and me scared badly and standing there only, in the meantime Manish, Mulla, Laliti, Deepak and one another boy armed with Wooden Leg of the COT (i.e Paya) and Danda surrounded them while attached by Mohit and Mulla attacked with danda in their hands and Deepak attacked on me right side of my face and attacked full force under my eye and due to which I lost the sight of my right eye and I fell down. Mohit hit me with full force with the intention of breaking my right leg and said that you will not be able to walk on your feet from today onwards. When we fell down, Mohit snatched Rs. 70,000/- from my pocket and run away. While running, Mula told us that today I have left you alive. Next time we will kill you, after that I don't know who took me and Vikas to the hospital, hence it is requested that strict legal action may kindly action against the culprits and punishment may be given. SD/- Sagar son of Ramratan. Mobile No. 9999650686.”

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 and no injury has been inflicted to the complainant rather there was personal old rivalry between the accused and the complainant. He further submits that the petitioner is not involved in any other case, therefore, his antecedents are clean.

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 8 months.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the allegations against the petitioner are serious in nature, therefore, he does not deserve the concession of bail.

4. Analysis

Considering the custody period undergone by the petitioner i.e., 8 months 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 and no injury whatsoever has been attributed to the petitioner added with the fact that investigation is complete, challan stands presented on 21.10.2024, charges have been framed on 04.02.2025 and out of total 28 prosecution witnesses, none has been examined so far. 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***. 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.

21.03.2025

Meenu

(SANDEEP MOUDGIL)
JUDGE

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