



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

203

CRM-M-14871-2025
DATE OF DECISION: 05.04.2025

KAMAL PREET SINGH ALIAS KANWALJEET SINGH
...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sourabh Singla, Advocate for the petitioner(s).

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for granting of regular bail to the Petitioner in FIR No.0093 dated 29.03.2023 under Section 406, 420, 467, 468, 471, 120-B of IPC, registered at Police Station Zirakpur, District SAS Nagar, Punjab (Annexure P-1).

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

'It is registered that at this time one complaint number 1046/5D/police station Zirakpur from Sanjay Kumar Garg s/o Late kapur Chand Garg r/o house no. A-1, 1003 Maya Garden city Nagla Road Zirakpur police station Zirakpur district S.A.S. Nagar written action police ASI Chamkor singh 739/SAS Nagar by hand through P.H.G Lajja Ram 30777 has been received," To, Head Offucer police station Zirakpur. Subject- Kamalpreet Singh s/o Harbans Singh r/o house no. 32 B Sharma Estate, Lohgarh Road Zirakpur district S.A.S Nagar, his wife Ashminder Kaur and Balwinder Singh Sharaf s/o Mohammad Sharaf r/o telephone



exchange colony, Patiala road Zirakpur and Ashminder Kaur's two relative Sunny and Puppy r/o Delhi with regard to fraud of crores of rupees committed by them with us. Respected Sir it is requested that we are resident of Zirakpur and Panchkula. We are mutual friends. Among us someone is bank employee and someone used to work as property dealer. One of our friend Kamalpreet Singh s/o Harbans Singh r/o house no. 32/B Sharma Estate, Lohgarh Road Zirakpur district S.A.S Nagar who do work of immigration with his wife Ashminder Kaur, Balwinder Sharaf and Ashminder Kaur's two relatives Sunny and Pappi r/o Delhi from his house. These above five through a conspiracy committed fraud with us of around 10 crore rupees. Kamalpreet Singh and his wife Ashminder Kaur above by preparing forged documents have opened 8 bogus accounts in different-different banks. Committed fraud with us by putting money in those accounts. bogus detail Whose is as following: 1. Sanjay Kumar Garg s/o Late Kapur Chand Garg r/o house no. A-1, 1003 Maya Garden City Nagla Road Zirakpur police station Zirakpur district S.A.S Nagar 9501474850, around 5 crore rupees has received in different-different bank accounts, whose detail is attached herewith. Kamalpreet Singh and Ashminder Kaur. 2. Gurmehar Singh s/o Late Sh. Pal Singh r/o house no. 146, Dashmesh Colony, Patiala road Zirakpur 9417372077, around 16 lakhs has been deposited in account of Kamalpreet Singh and rest 22 lakh 81 thousand received in different-different bank accounts, whose detail is attached herewith (Kamalpreet Singh as a trust had given different-different cheques of 3 lakh and 5 lakh ruppes bank account no. 19180100007458 of Federal Bank Zirakpur. On which he has written his name Kawaljeet Singh. 3. Baljinder Singh s/o Charanjit Singh r/o house no. 62, Green Park Colony, Lohgarh Road Zirakpur 9815376017, around 23 lakh 79 thousand ruppes deposited in Yes Bank Zirakpur bank account no. 04593600000949. Whose detail is attached herewith (Deposited in Kamalpreet Singh's account through R.T.G.S and account pay). 4. Shashank Sharma s/o Surinder Sharma r/o house no. 39, Air Force Enclave Dhakoli Zirakpur 9888886085, around 3 crore 50 lakh rupees deposited in Kotak



Mahindra Bank account no. 5647009904. Whose detail is attached herewith (Deposited in Kamalpreet Singh's account through R.T.G.S). 5. Yogesh Mahajan s/o Ramesh Mahajan r/o flat no. 18-C, Skynet Enclave Lohgarh Road Zirakpur 9876084213, around 25 lakh rupees (received in H.D.F.C, Kotak Bank and I.C.I.C.I bank through card swiping). Whose detail is attached herewith. 6. Vijay Kumar Juneja s/o Late Sh. Roshan Lal r/o flat no. 601, tower no. 4. Royal Estate Zirakpur 9216730000, around 44 lakh ruppes (given in front of Paras Tulli and Rajat Nayar in cash). 7. Asees s/o Kishan r/o house no. 623, sector 11 Panchkula 8447094882, around 20 lakh ruppes cash (given in front of Mehndi Ratta and Abhishek Indwal. Kamalpreet Singh, Ashminder Kaur, Balwinder Sharaf r/o of Zirakpur and Sunny, Pappi r/o Delhi above with their families are in keen desire to go abroad. If they are not got arrested today then they will evade abroad with our money and money given by us to them will die. It is our request that relative legal action should be taken against these two. We will be thankful to you. Sd/ Sanjay GARG, 95014-75851, Sd/- Gurmehar Singh 94173-72077. Sd/- Baljinder Singh 98153-76017, Sd/- Shashanksh Sharm 9888886085. Sd/ Yogesh Mahajan 98760-84213, Sd/- Vijay Kumar 92167-30000, Sd/- Ashish 84470-94882.'

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. He submits that as per the allegations, the petitioners along with other co-accused persons by forging the documents opened the bogus bank account and allegedly committed fraud of around Rs. 10 crores. He further submits that no document or evidence has been recovered by the prosecution in this connection. It is his further contention that investigation in this case is complete as challan stands presented on 28.06.2023, charges are yet to be framed and 11 PWs are cited by the prosecution to be examined so far



which is sufficient to infer that the conclusion of trial is likely to take considerable 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.

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 in other FIR also, moreso, there are allegation against the petitioner of committing fraud of around Rs. 10 crores.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 1 year, 11 months and 28 days and learned State Counsel is unable to produce any concrete material to connect the petitioner with the alleged offence added with the fact that 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 28.06.2023, charges are yet to be framed and 11 PWs are cited by the prosecution to be examined so far which is sufficient 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

05.04.2025
anuradha

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