



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14612-2025
DECIDED ON: 03.04.2025

SACHIN

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sunil Polist, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 483 BNSS for granting the regular bail in FIR/236/dated-02/07/2022, under Sections 341, 379-A IPC, PS-Madhuban (Karnal), 379-B, 365, 392 read with Section 34 of IPC added subsequently, however, later on Sections 341 & 379A IPC deleted (Annexure- P-2) to the present petitioner as the regular bail has been declined by the Ld. ASJ, Karnal vide order dated-07/03/2025 (Annexure P-3).

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

“First information report: At this time, I, Sub-Inspector Jai Bhagwan No. 936/SPT, Police Station Madhuban, present at the police station that an application No. 3900-PESHI dated 29.06.2022 has been received in the

office of the Superintendent of Police, Karnal by Complainant Hardeep Singh son of Jaspal Singh resident near Chungi No. 4, Mahindra Nagar, Sirhind, Punjab into the Police Station the copy of the application is sent to The Superintendent of Police, Karnal Sir, it is requested that 1, Hardeep Singh son of Jaspal Singh, resident near Chungi No. 4, Mahindra Nagar, Sirhind, Punjab. I have a white colour HYUNDAI company's VERNA car whose model is 2013 and number PB11 BK 1700. On 11.05.2022, I had gone to Delhi Airport with my car for some work, then near Bastara toll plaza, 3 unknown persons stopped me by driving their 120 car with me. When I stopped the car, they snatched my car from me by claiming to be members of HDB Finance Company Branch Patiala and forcibly made me write an affidavit by going to Kurukshetra Court with them and kept the car with them. In this way, they snatched my car from me without any legal process. Strictest legal action should be taken against them. Sd/- Hardeep Singh son of Jaspal Singh Near Chungi No. 4 Mahindra Nagar Sirhind Punjab 79861-51931.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner is at parity with co-accused Sonu, who has already been granted the concession of regular bail by the trial Court vide order dated 23.12.2022. He further contends that a compromise has been entered into between the co-accused Sonu and the complainant Hardeep Singh, as is evident from Annexure P-5 and in pursuance thereof, a quashing petition has been filed by him bearing No.CRM-M-5542 of 2025, which is pending for 18.03.2025.

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 petitioner is a habitual offender as he is involved in another case and admits the factum of compromise entered into between the parties.

4. Analysis

Be that as it may, considering the custody period i.e. 01 month and 24 days for which the petitioner has suffered incarceration; the petitioner is at parity with co-accused Sonu, who has already been granted the concession of regular bail by the trial Court vide order dated 23.12.2022. Moreover, a compromise has also been entered into between the co-accused Sonu and complainant namely Hardeep Singh.

Also considering the fact that investigation is complete, challan stands presented to Court on 16.09.2021, charges have been framed on 25.04.2022 and total 12 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.

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 concession of bail.

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.

03.04.2025

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No