



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14620-2025
DECIDED ON: 04.04.2025

KANWAR RANDEEP SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. H.S. Randhawa, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 483 of the Bhartiya Nagrik Suraksha Sanhita 2023, seeking grant of Regular Bail to the Petitioner during pendency of the trial in FIR No. 85 dated 22.05.2020 registered under Sections 302, 148, 149, 506, 201 of the Indian Penal Code, 1860 and Section 27 of Arms Act, at Police Station Anaj Mandi, District Patiala.

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

“That one written statement of Sh. Davinder son of Sh. Jainarayan, resident of House No.6, Gali No.04, Sukhram Colony, Patiala, Police Station Anaj Mandi, Patiala, Mobile No.86999-45448 aged about 34 years through SI Gurnam Singh Sub-Inspector, Police Station Anaj Mandi,

Patiala, regarding registration of case against Kanwar Randeep Singh @ S.K. Kharor, resident of Baran, Sajan, Abbu, Lali, resident of Government Quarter Sanjay Colony, Chand Mohammad, Phool Mohammad, Pawan @ Punnu, resident of Yadwinder Colony, Tara Dutt, resident of Vikas Nagar, Patiala, Jatinder Shergill, resident of Khasiya, Parmod @ Modi, resident of Bajwa Colony, Vicky Topi, Twinkle, resident of Sukhram Colony, Prince Chakki Wala, resident of Anaj Mandi, Patiala and 5/6 unknown persons, under Sections 302, 148, 149, 506 IPC, 25-54-59 A Act received through Constable Ramanjeet Singh/942 in Police Station, the brief facts of which are as follows:- Stated that I am resident of above said address and working as a Salesman Software in Ludhiana. We are three brother and sisters. We all are married and our elder brother namely Satish Kumar residing at our old Village Hasanpur, District Sonapat (Haryana). My brother Shamsher Singh aged about 36 years, his family and my family are living together at Patiala and the son of our brother Satish Kumar namely Vansh Kumar is studying at Patiala by living with us. Mohammad Shah Jahan alias Sajan son of Mohammad Shoeb, resident of Street No.01, New Shakti Nagar, Patiala caused injuries to my brother Shamsher Singh in the year 2018, regarding which a case was registered at Police Station Kotwali, Patiala, which is still pending in the court. Yesterday on dated 21-05-2020 there was birthday of our brother Shamsher Singh, because of which I, my brother Shamsher Singh and our nephew Vansh Kumar, we three were going from home on foot to get things from Bharat Nagar. My brother Shamsher Singh was walking at some difference from us. I and my nephew Vansh Kumar were walking a little behind him, then at around 9-15 PM, when we reached near Baba's shrine, Street No.04, then Kanwar Randeep Singh alias SK Kharor resident of Baren, Sajan, Abu, Lalli, resident Government Quarter, Sanjay Colony armed with Kirpan, Chand Mohammad, Phool Mohammed armed with Gandasa, Pawan alias Pannu, resident of Yadwindra Colony armed with iron rod, Tara Dutt,

resident of Vikas Nagar, Patiala, Jatinder Shergill, resident of Khasiyan armed with Gandasa, Pramod alias Modi, residents of Bajwa Colony armed with rod, Vicky Topi, Twinkle, resident of Sukhram Colony armed with Kirpan, Prince Chakki Wala, resident of Anaj Mandi, Patiala armed with Gandasa and 5/6 unidentified persons, whom we can identify upon confrontation, were already standing. They were having a white colored Swift and a white colored Skoda. When my brother reached near to them, then SK Kharor raised lalkara and said that catch it, what are you seeing, don't let Shamsher escape today, then SK Kharor, Abu and Chand Mohammad took out their pistols from their waists and fired in the air and Sajan took out pistol from his waist and fired directly at my brother with the intention of killing him, which hit below the left armpit of my brother Shamsher Singh, then my brother Shamsher Singh immediately ran backwards, he went a little further and fell down. Out of fear i and my nephew ran backward and entered into the street. All the other people were raising lalkaras that kill Shamsher today and Lali waved his Kirpan, Phool Mohammad his Gandasa, Pawan Punnu his rod, Jatinder Shergill his Gandasa, Pamod Modi his rod, Twinkle Sukhram Colony his Kirpan, Prince Chakki Wale his gandasi, in the air and shouted very loudly that they had killed Sher. Tara Dutt, Vicky Topi etc. hurled a lot of bricks at us, we also saved our lives with great difficulty, then all these people got into the above said vehicles with their respective weapons and while threatening to kill us, they ran away from the spot. At that time the light bulb was on in the street, then I and my nephew Vansh Kumar arranged a vehicle and took my brother Shamsher Singh to Rajindra Hospital Patiala for treatment, where the doctors declared my brother Shamsher Singh dead. After which the corpse of Shamsher Singh was kept at Dead House of Rajindra Hospital, Patiala. After that, I and my nephew went to pick up my elder brother Satish Kumar from village Hasanpur, District Sonipat (Haryana) due to lockdown. Now we have reached the dead house of Rajindra Hospital, Patiala with our relatives, where

I have recorded my statement to you in the presence of my nephew Vansh Kumar, read over and heard, which is correct. All these people have shot my brother Shamsher Singh and killed him because of old grudge of the fight. Therefore, inquiry may be conducted against them according to law.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner is at parity with co-accused namely Jatinder Pal Singh Shergill, who has already been granted the concession of regular bail by this Court vide order dated 15.02.2023 (Annexure P-6) passed in CRM-M-47524-2022. He further contends that the petitioner is in custody since 07.10.2022 and he is not required for any custodial interrogation as challan stands presented to court on 04.01.2023 and charges have also been framed on 12.11.2024.

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 does not controvert the above-said fact and seeks dismissal of the instant petition on the ground that the petitioner is a habitual offender as he is involved in eight other cases, wherein he is not on bail.

4. **Analysis**

Be that as it may, considering the custody period i.e. 02 years, 06 months and 06 days for which the petitioner has suffered incarceration as well as the fact that the petitioner is at parity with co-accused namely Jatinder Pal Singh Shergill, who has already been granted the concession of

regular bail by this Court vide order dated 15.02.2023 (Annexure P-6) passed in CRM-M-47524-2022.

Also considering the fact that investigation is complete, challan stands presented to Court on 04.01.2023, charges have been framed on 12.11.2024 and out of total 37 prosecution witnesses none has been examined so far, 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.

04.04.2025

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No