



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15402-2025
DECIDED ON: 04.04.2025

MANPREET SINGH ALIAS MANPREET ALIAS MANOJ
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Aditya Anand, Advocate for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 483 of Bhartiya Nagarik Suraksha Sanita, 2023 for the grant of regular bail to the petitioner in case FIR No.267 (Annexure P1) dated 15.10.2024 under Sections 126(2), 118(1), 191(3), 190, 351(2) & 118(2) (added later), BNS, 2023 (erstwhile Sections 341, 325, 148, 149, 506 & 326, IPC, 1860) registered at P.S-City Kapurthala, District-Kapurthala.

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

Stated that I am the resident of the above stated address and I am engaged in the business of PVC. On 14.10.2024, at about 04:00/04:15 in the evening, I was at my home and my elder brother Kamalpreet Singh had gone to the grain market to get the feed on his scooter of the make 'Access' bearing No. PB-09-AD-6863. In order to meet my friend, I had gone on the

same route on foot. When I reached near the house of the MC Thakur Das, I saw my brother taking a turn on the way, where Pawanpreet Singh son of Gurtej Singh resident of Mehndi Chowk, Mohalla Mehtabgarh armed with datar, Manav @ Ajay Kumar @ Babba son of Ravinder Kumar, resident of Mohalla Mehtabgarh armed with datar, Manoj son of Pal resident of Mohalla Mehtabgarh armed with datar, Hemant son of Harish resident of Kesari Bagh armed with datar, Dilbagh @ Bawa son of Gurmeet Singh resident of Sundar Nagar armed with datar and Mela son of Dev Chauhan resident of Mohalla Bakarkhana, Shiv Colony armed with datar along with 4/5 unknown persons had gathered on an Activa bearing No. PB-09-AN- 9246 and 2/3 other unknown vehicles. The aforesaid persons surrounded my brother and due to old animosity, on seeing them my brother left his scooter behind and started running backwards. Then Pawanpreet Singh gave a lalkara while my brother was running backwards and stated that "Get a hold of Kamal and today we will not miss the opportunity to kill him". All the aforesaid persons along with their respective weapons started running after my brother and they surrounded my brother in the next street going towards Raika Mohalla. Pawanpreet Singh proceeded to attack my brother with datar and the blow landed on his left shoulder. Then Manav @ Ajay @ Babba proceeded to attack my brother with datar and the blow landed just above the wrist of the right arm. Then Manoj son of Pal proceeded to attack my brother with datar and in order to save himself, my brother put his right hand forward and the blow landed on the fingers of his right hand. Then my brother fell down on the ground and Pawanpreet son of Gurtej Singh again attacked my brother while on the ground with datar and the blow landed on the knee of his right leg. Then an unknown person attacked my brother with datar and the blow landed just below the knee of his right leg. Then Mela son of Dev Chauhan gave three consistent blows of datar on the left leg of my brother. Then Hemant son of Harish gave three datar blows which landed

on the left arm of my brother. Then the unknown persons accompanying the aforesaid persons, gave blows with their respective dattars which landed on the back of my brother. In order to save my brother, I headed towards the spot and on seeing me, the aforesaid persons charged towards me in order to kill me. In the meantime, alarm was raised by me and my brother and due to this some passersby and residents of the neighbourhood gathered at the spot. On seeing the gathering, the aforesaid persons fled the spot along with their respective weapons while exhorting to kill us. The aforementioned incident was witnessed by me and Rakesh Kumar son of Ramesh resident of Mohalla Mehtabgarh as the said incident happened at a distance of only 30/40 feet (karma) from us. Then I along with Rakesh Kumar arrange conveyance and took my brother Kamalpreet Singh to Civil Hospital, Kapurthala, where my brother received treatment. Due to multiple injuries on hands and his legs, my brother was referred to Guru Nanak Dev Hospital, Amritsar. However, due to Jalandhar being nearer, we got my brother admitted to PIMS Hospital, Jalandhar. The reason for the animosity is that both the parties had a quarrel in the year 2023 due to which, the aforesaid persons have caused injuries to my brother. Today, I along with Rakesh Kumar son of Ramesh resident of Mohalla Mehtabgarh have come present at the police station. I have tendered my statement. Strict action may kindly be taken against the aforesaid persons.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that there is an unexplained delay of 24 hours as the alleged incident took place on 14.10.2024 whereas the FIR was lodged on 15.10.2024. He further contends that as per the prosecution story, the allegation against the petitioner is that he gave dattar blow on the fingers of right hand of the injured Kamalpreet

Singh, which is grievous in nature. Apart from that, no other incriminating material is coming forth to connect the petitioner with the alleged commissioning of the offence, as has been argued by learned counsel for the petitioner.

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 five other cases and the injury attributed to the petitioner is grievous in nature.

4. **Analysis**

Be that as it may, considering the custody period i.e. 04 months and 21 days for which the petitioner has suffered incarceration; no other incriminating material has been put forth by the prosecution to connect the petitioner with the alleged commissioning of the offence apart from injury with dattar on the fingers of the right hand of the injured-Kamalpreet Singh, which is on non-vital part of the body and the fact that there is an inordinate delay of 24 hours in lodging the instant FIR.

Also considering the fact that investigation is complete, challan stands presented to Court on 10.02.2025, charges are yet to be framed and total 19 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.

04.04.2025

Poonam Negi

**(SANDEEP MOUDGIL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No