

2025:PHHC:043571



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

**CRM-M-16640-2025
DECIDED ON: 01.04.2025**

HARSH RAWAL

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Raman Chawla, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG Haryana

Mr. Vaneet Soni, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) for grant of regular bail to the petitioner in case FIR No. 234 dated 28.09.2024 under Sections 109(1), 115, 190, 191(2) 191(3), 351(2), of The Bharatiya Nyaya Sanhita (BNS Act 2023) (during the report U/S. 193 of B.N.S. Act 2023 the sections 109(1), 115, 117(2), 238(a), 3(5) 351(3) were added) registered at P.S. Sanoli District Panipat, in the interest of justice.

2. Facts

Facts as narrated in the FIR reads as under:-

“Copy of the written complaint is to, SHO Sahib, Police Station Sanauli Panipat. Subject: accused No. 1 Ashok son of Katar Singh, accused No. 2 Monti son of Ashok, accused No. 3 Adesh son of Dheeraj, accused No. 4 Sachin son of Sethpal, accused, accused No. 5 Vinod son of Katar Singh, accused No. 6 Harsh son of Vinod accused no. 7 Rohit son of Jagbir, accused no. 8 Mohit son of Jagbir, accused no. 1 Savita wife of Dheeraj, accused no. 10 Kaushal wife of Vinod and others. Sir, I humbly request that I, Kiranpal son of Shyam Singh is resident of village Chhajpur Kalan Panipat. On 25.09.2024, Shri Dharm Singh Choukkar, candidate of Vidhan Sabha Congress Party came to our village to seek votes. But on that day, at night, my brother had an altercation with Adesh and other people. But Dharm Singh Choukkar intervened and pacified both the parties and there was no enmity between us. But on 26.09.2024, when around 09:30 am, I and my real brother Narender were going to our uncle house. On the way, when we reached near the chowk of old Panchayat House, the above accused were already sitting there in ambush position and during that time Adesh raised a lalkara that you were spare last night but now you will not be spare. Then my brother tried to calm him down and asked the reason. I also told them that we have no quarrel with them. But they did not listen to a single word of ours and all of them caught us and started dragging us in the street of the Panchayat House. Meanwhile, I tried to explain to them that we have no quarrel or enmity with you, but they did not listen me and Adesh took an iron rod and tried to hit my brother on the head, but he stopped the rod with his right hand, due to which his hand broken. After that, all the above accused attacked us with sticks, iron rods and swords. Sachin and Monti were also saying that kill both of them so that they do not play politics in front of us. Thereafter, Sachin hit me on my head with an iron rod with the intention of killing me and I fell down due to the rod. Then Vinod gave a stick blow in my stomach, Ashok gave a blow with iron rod and Harsh hit me with

a stick and the above ladies hit me with lathis in my stomach. When I was lying on the ground in pain, I saw that Mohit and Rohit caught my brother Narender and Monti hit him with a sword on his head, due to which he got injury in the head and fell down. After falling, he started calling for help. Hearing our screams, my uncle's son, my brother's son and 15-20 other villagers came to the spot and freed us from their clutches, while returning back Ashok abused us and said that I myself in police. Let's see who helps you. You cannot do any thing to me. While returning, the above accused also warned us that if we meet alone anywhere again or tell anything about this incident to the police, they will kill us. After that we both of us were brought to Max Hospital Panipat by our relatives and our treatment is still going on. Hence, it is requested that our life is in danger from the above accused and strict legal action be taken against them and we justice be done. We will be very grateful to you. Applicant- Kiranpal son of Shri Shyam Singh resident of village Chhajpur-Kalan Panipat. Date-28.09.24 Police proceedings- On 26.09.24, a ruqa was received at the police station from Max Plus Hospital Panipat that Narender Kumar, Kiranpal sons of Shyam Lal resident of village Chhajpur-Kalan District Panipat are injured in a fight and are admitted for treatment, on which information, Head Constable Ajay No. 24 reached Max Plus Hospital Panipat. After taking opinion from Doctor Saheb, the victim Narender was found Fit for Statement and the injured Kiranpal was found Unfit for Statement. Medical certificates were obtained. The injured records could not be obtained. Yesterday on 27.09.24, the injured Narender sent his handwritten application to the police station through his brother Mitrapal and others. Since the records of the injured were not available and were not verified by higher officials, a report was registered in rapat roznaamcha. Today on 28.09.2024, the concerned SHO and Satish Kumar HPS Deputy Superintendent of Police Headquarter, Panipat went to the spot and verified the incident. Thereafter, myself ASI along with BHC

Ravindra 383 reached Max Hospital, Panipat for further proceedings. Doctor sahab wrote a Fit for Statement to the injured Kiranpal son of Shyam Lal. The injured Kiranpal son of Shyam Lal presented a typed written application to myself ASI. MLR's of the injured were obtained. In the MLR NO-RD/248/SEPT/2024 dated 26.09.24 of Narender Kumar, Dr. Sahab has written about a total of 2 injuries, injury no.-1 Advice ortho opinion, X-ray RT FA, APLAT, injury no. 2 Neuro Surgeon opinion, Ncct Head and in injured Kiranpal MLR NO-MKS/26/2024 dated 26.09.24, Dr. Sahab has written about a total of 4 injuries, injury no. 1 Advice NCCT Head, injury no. 2 RT Black eye, injury no. 3 Advice C'ECT Abdomen, X-ray chest and injury no. 4 Advice X-ray chest PAB Neuro Surgeon opinion, Surgeon opinion. As per the written application, and after perusal of MLR's and as per verification of higher officials, the offence under Sections 115(2),190,191(2), 191(3), 109(1),351(2) BNS are found to be committed. The complaint for registration of the case is being sent to the police station through EHC Ravindra 383. Please be informed with the case number. I, ASI along with the relatives of the injured, have left for the spot, village Chhajpur Kalan. Today - Max Plus Hospital Sanoli Road Panipat SD - ASI Surjeet Singh Police Station Sanoli Panipat Date - 28.09.24 ”

3. Contentions:

On behalf of the petitioner

At the outset, learned counsel for the petitioner submits that the matter has been compromised between the parties on the basis of compromise with the intervention of the respectable of the society, the complainant does not want to pursue with the matter any further. On merits he contends the role attributed to the petitioner is of causing an injury with danda (stick) on the abdomen of one Kiran Pal and the said injuries also declared to be simple in nature. He further contends that the danda was not recovered from the petitioner.

On behalf of the State/complainant

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 2 months and 22 days. He prays for dismissal of the present petition stating that the petitioner is a part of unlawful group, therefore does not deserve the concession of bail.

Learned counsel appearing on behalf of the complainant admits the factum of compromise and also endorsed no objection, in case the present petition is allowed and petitioner is enlarged on bail. He does not controvert the fact that the injury attributed to the petitioner is simple in nature.

4. Analysis

Considering the fact that the parties have already settled the matter amicably, injury attributed to the petitioner is simple in nature; antecedents of the petitioner are clean added with the fact that investigation is complete, challan stands presented on 14.02.2025, charges are yet to be framed and total 30 prosecution witnesses are to be examined. 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.

(SANDEEP MOUDGIL)
JUDGE

01.04.2025

Meenu

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