



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18541-2025
DECIDED ON: 09.04.2025

KHUSHPREET SINGH @ KHUSHI

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P.S. Sekhon, Advocate and
Mr. Rajdeep Singh Gill, 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 for the fourth time under Section 439 Cr.P.C. (483 of BNSS, 2023) for grant of regular bail to the petitioner in FIR No. 345 dated 08.11.2023 under Sections 307, 326, 325, 324, 323, 506, 148, 149 and 201 IPC, P.S. Sadar Mansa, District Mansa.

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

“Copy of the statement, "Statement of Narvinder Singh son of Darshan Singh son of Saun Singh resident of Bhaini Bagha aged about 23 years Mobile No. 62396-76665, stated that I am resident of the above said address and I do the labour work. Today, it would be around 06.00 PM that I was along with my friend Navjot Singh son of Moti Singh son of Budh

Singh resident of Bhaini Bagha, were going to our village itself for some domestic work and when I we reached near the house of Joginder Singh Kotliwala just ahead the society of our village then from the front side Khushi Singh son of Mithu Singh son of Bola Singh resident of Bhaini Bagha came while riding on his tractor Sonalika, who, with the intention to kill us he made the tractor straight towards us, we ran and stand with the wall, and the front tyre of the tractor ran over my right leg, hit the wall and stopped. Khushi Singh's brother Tinu Singh son of Mithu Singh son of Kaur Singh came on his motorcycle, followed by Gosa and Carlo residents of Bhaidesa and Sagni, whose village I don't know, all the four came, who were having rods and Gandasas, and above said Khushi Singh also got down from the tractor and took out the gandasa from the tractor and while raising lalkara he said how they harass us by standing with Ladoo Singh. In the meanwhile, Khosa Singh gave his armed gandasa blow straight at Navjot Singh's head with intention to kill. Then Khushi Singh also gave his armed gandasa blow to Navjot Singh's head with intention to kill. Meanwhile Jinda Singh resident of Nangal Kalan along with 15/20 unknown persons came riding on two cars and motorcycles, Seepa Singh and Wajira Singh son of not known of our village were also with them. All these persons were armed with baseball, rods and sotis (sticks). Then Jinda Singh resident of Nangal Kala, while raising lalkara said, "Now make these people unable to stand on their own feet throughout their lives. Then all these persons gave numberless blow on our body and other organs and dragged us on the road by holding our legs, due driving tractor over my legs and dragging us by the above said persons and hitting the rods on my right legs my leg was badly broken, and the above said persons threatened us that if you dared to support the Ladoo in future, then they would kill us. The cause of animosity is that the above said persons have doubt that we help Ladoo Singh resident of Bhaini Bagha. Due to which the above said persons in connivance with each others have inflicted injuries

*to me and my friend Navjot Singh with intention to kill.
Statement has been recorded to you, heard and it is correct.”*

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the injuries on the person of the injured are not dangerous to life and also not declared grievous as per MLR and the injuries attributed to the petitioner are not declared to be dangerous to life, therefore, ingredients of Section 307 IPC is not made out against the present petitioner. It has been further contended that after completion of investigation, challan stands presented to Court on 06.02.2024, charges are yet to be framed and total 12 prosecution witnesses are yet to be examined, meaning thereby, the conclusion of the trial will take long time for which the petitioner cannot be detained behind the bars for an indefinite period.

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 along with co-accused persons armed with sharp edged weapons and have caused injuries on the person of the complainant namely Narwinder Singh and injured namely Navjot Singh. He further contends that the specific allegations against the petitioner are that of causing injuries on the head of the injured Navjot Singh by gandasi. The petitioner is also a habitual offender as he is involved in another case, as has been averred by learned State counsel.

4. **Analysis**

Be that as it may, considering the custody period i.e. 01 year, 03 months and 04 days for which the petitioner has suffered incarceration; none of the injuries attributed to the petitioner are declared dangerous to life, therefore, ingredients of Section 307 IPC is not made out against the present petitioner in addition to the fact that investigation is complete, challan stands presented to Court on 06.02.2024, charges are yet to be framed 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.

09.04.2025

Poonam Negi

(SANDEEP MOUDGIL)

JUDGE

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