

2025:PHHC:051983



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

**CRM-M-19827-2025
DECIDED ON: 23.04.2025**

RICKY GHAI @ LAKHA**.....PETITIONER****VERSUS****STATE OF PUNJAB****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: None.

SANDEEP MOUDGIL, J (ORAL)

1. The Punjab & Haryana High Court Bar Association and Bar Council of Punjab & Haryana High Court have decided “**No work day**” for today i.e., 23.04.2025 on account of sudden demise of Sh. Bhupinder Singh Rathore, oldest member of the Bar Council.

2. The jurisdiction of this Court under Section 483 BNSS, has been invoked for the 2nd time seeking regular bail to the petitioner in FIR No. 22, dated 09.11.2023, Registered under Section 384,506,411,120-B of IPC, Sections 25,25(7) of the Arms Act, at P.S. State Special Operation Cell, District Mohali.

3. Facts as narrated in the FIR reads as under:-

“Today SI received an information on 12.45 Pm from a secret informer in which he informed that Gaurva patila @ Lucky S/o Surinder who is the main head of Davinder Bambiha Group who takes money from rich people on account of extortion in this work he is being helped by Jagjit Singh S/o Rampal, Anmol Singh S/o Kaka Singh and Manpreet Singh@ Manni S/o Kuleep Singh and other

unnamed peoples. To whom lucky patial has also sent illegal weapons and all these belong to criminal gang Davinder Bambiha today these three on instruction of lucky patial are coming on motorcycle PB29-AD-3614 black colour along with illegal weapons are coming from Ludhiana Side towards Moahli Side for target Killing. Today if surveillance is done on the way then this heavy weapons along with ammunition can be handled. This information is confirmed. As these people have made offence under section 384, 506, 120-B IPC and 25, 25(7) of the Arms act against Gaurva Patial @ Lucky, Jagjit Singh @ Chinni, Anmol Singh, Manpreet Singh and other unknown people, Today Ruga is being sent and may kindly be registered against Jagjit Singh s/o Rampal, Anmol Singh S/o Kaka Singh and Manpreet Singh@ Manni S/o Kuldeep Singh and other unnamed peoples under section 384, 506, 120-B IPC and 25, 25 (7) of the Arms act and investigation is being stated and about this the superior officers were informed and special reports were prepared.”

4. It is pleaded in the petition that the that the name of petitioner has not been mentioned in the FIR but later on, he has been nominated as an accused on the basis of disclosure statement suffered by his co-accused namely Anmol Singh on 30.11.2014, which does not hold any evidentiary value. It is also pleaded in the petition that the said disclosure statement is nowhere made a part of the charge-sheet filed by the prosecution. Perusal of the petition shows that co-accused persons namely Sukhchain Dass @ Deepu and Manpreet Singh @ Mani have already been granted the concession of regular bail vide orders dated 17.03.2025 (Annexures P-4 & P-5) passed by this Court in CRM-M-47004-2024 & CRM-M-51001-2024 respectively.

5. As per custody certificate produced in the Court by the Pervi Officer, the petitioner has suffered incarceration for a period of 1 year 4 months and 18 days and has been convicted in FIR No.274 dated 10.11.2015.

6. Be that as it may, considering the facts that the petitioner has already suffered sufficient incarceration i.e., 1 year, 4 months and 18 days; co-accused persons namely Sukhchain Dass @ Deepu and Manpreet Singh @ Mani have already been granted the concession of regular bail added with the fact that investigation is completed, charges have been framed on 20.11.2024 and out of total 17 prosecution witnesses, none has been examined so far, which is sufficient for this Court to infer that the conclusion of trial shall take considerable time and therefore, this Court is of the considered view that detaining the petitioner behind the bars for an indefinite period would solve no purpose.

7. 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.”

8. Therefore, to elucidate further, this Court is conscious of the 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.

9. 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 lend the petitioner in a situation of denial the concession of bail.

10. In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

11. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

12. The petition in the aforesaid terms stands allowed.

13. The Jail Authority, concerned is directed to intimate the said order to the petitioner-accused.

(SANDEEP MOUDGIL)
JUDGE

23.04.2025

Meenu

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