



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

235

CRM-M-19226-2025
DATE OF DECISION: 22.04.2025

VISHNU

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. D.S. Virk, Advocate for the petitioner(s).

Mr. B.S.Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)**1. Prayer**

This petition has been filed under Section 483 B.N.S.S. 2023 for grant of regular bail to the petitioner in FIR no.455 dated 17.08.2023, U/s 307 IPC, registered at Police Station Pinjore, District Panchkula (Annexure P-1).

2. Prosecution story set up in the present case as per the version in the FIR reads as under :-

‘Sir, Copy of statement is as follow:- statement is recorded by Kanta wife of Vishnu residence of Parshuram Nagar ward number 27 Bathinda Punjab Now Residence of Burj Kotia Police Station Pinjore District Panchkula age about 40 years mobile number 720 655 896. Stated that I am residence of above mentioned address and I was married to Vishnu son of Kaluram. I was blessed with 5 children my husband Vishnu use to beat me after consuming liquor. so I was so fed up from this relation left



Vishnu and started to live with Tejram alias Goldy son of Sant Bahadur about 6 years ago and in Panchayat it was decided that myself and Goldy will live together now I am living with Goldy at Burj Kotia on a rented accommodation for two and half month. Today on 17.08.2013 Vishnu my husband came to our rented accommodation there I and Goldy were present at 1:10 p.m. my husband asked me to come with him. I refuse to go with him in the meantime Vishnu went outside of our house and came with a blade in his hand and he gave a blow to Tejram alias Goldy with intention to kill him he put his hand on his mouth and gave forceful blow of blade on the neck of Tejram with other hand, the blood started oozing after the blow of blade. I raised you and cry in the meantime owner of the house came to my room and he made a call on number 112 after that myself took Tejram to hospital at Sector 6 Panchkula from there Dr. Sahib referred Tejram alias Goldy for PGI Sector 12 Chandigarh. Tejram alias Goldy is admitted in PGI Sector 12 Chandigarh. Vishnu gave blow to Tejram alias Goldy with intention to kill him on his neck with a blade. Legal action be again taken again I have recorded my statement to you statement is heard it is correct. RTI of Kanta attested by ASI Vikrant police post Amravati dated 17.08.2023. POLICE PROCEEDING: today ASI along with HC Sushil Kumar Panchkula were present at police post at sector 6 Panchkula in the meantime police post got a message from doctor that Tejpal alias Goldy son of Sant Bahadur got injuries in a altercation and he is brought to sector 6 Panchkula for treatment on receiving the information the ASI along with the police officials reached that sector 6 Panchkula there the police got MLR number MLC/23/08/03672/RS. The Doctor showed two injuries in the MLR number MLC/23/08/03672/RS to Tejram alias Goldy. 1. Incised wound of 8X 2 with a depth of 5 cm on anterior part of neck ADC City neck and ENT and surgeon opinion, injury no. 2 superficial incised wound of 2 X 1 with a depth of 1 cm present below injury no. 1 over anterior part of neck. ADV CT, neck and ENT surgeon opinion. Nature of injury after opinion and kind of weapon used sharp. From the government hospital of Sector 6 Panchkula the



police came to know that the injured is referred to PGI sector 12 Chandigarh. After that I, ASI along with the fellow police officials reached at PGI sector 12 Chandigarh from there he got the Ruka regarding the Tejram alias Goldy to record the statement of Tejram alias Goldy. After that an application produced to the doctor for getting the statement of injured Tejram @ Goldy but the doctor declared him unfit to give the statement after that Kanta wife of Vishnu Resident of ward number 27, Parshuram Nagar Bathinda Now Resident of Burj kotia police station Pinjore District Panchkula met with the police party and she recorded her above said statement and the statement of Kanta is read over to her letter by letter, she understood the statement and found it correct she affixed her right thumb impression on the statement which is attested by me from the statement and MLR number MLC/23/08/03672/RS dated 17.08.2023 the offence under section 307 IPC is found to be committed. The statement is sent through HC Sushil Kumar at police station Panchkula. FIR be registered and FIR number may be issued and special reports may be prepared and send to senior officer the ASI is busy at investigation. Today 17.0.2023 at PGI sector 12 Chandigarh. Sd/ ASI Vikrant police post Amravati dated 17.08.2023 time 08:50 PM. on the basis of above stated statement the offence under section 307 IPC Police Station Pinjore District Panchkula was registered and police file after watching original statement send for the investigation. The senior officers are briefed regarding the circumstances of the case special reports are sent to the senior officer through email this FIR was recorded in the presence of I SI Naseeb Singh 14/Panchkula and in the presence of Sepoy Ajay on my instructions. FIR is being uploaded on the portal. Record procured as per the law.'

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. He submits that one of the injured persons namely Tej Ram @ Goldy was in live in



relationship with the complainant who is wife of the petitioner and when the petitioner went to make his wife understand the scuffle took place. He has further argued that the antecedents of the petitioner are clean. He further contends that the investigation in this case is complete as challan stands presented on 17.11.2023 charges stands framed on 29.01.2024 and after framing of the charges, out of 14 prosecution witnesses, none has been examined so far which is sufficient to infer that the conclusion of trial is likely to take considerable time, therefore, prays for grant of regular bail to the petitioner.

On behalf of the State

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.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the offence committed by the petitioner is serious in nature as he tried to kill Tej Ram @ Goldy with blade blow on his neck.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 1 year, 8 months and 3 days, antecedents of the petitioner are clean, meaning thereby he is not a habitual offender, and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt, whereas in the instant case, challan stands presented on 17.11.2023 charges stands framed on 29.01.2024 and after framing of the charges, out of 14 prosecution witnesses, none has been examined so far which is sufficient to infer that the conclusion of



trial is likely to take considerable time and therefore, detaining the petitioner behind the bars for an indefinite period would solve no purpose.

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 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 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.

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

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

22.04.2025
anuradha

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No