

2025:PHHC:056597



231

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

**CRM-M-21948-2025
DECIDED ON: 01.05.2025**

INTAJAR ALIAS LUCKY**.....PETITIONER****VERSUS****STATE OF PUNJAB****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Sartaj Singh Thakur, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG Punjab.

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

The jurisdiction of this Court has been invoked for the 2nd time under Section 483 BNSS, for grant of regular bail to the petitioner in FIR No.0032 (Annexure P-1), dated 11.02.2022, under Sections 302/34 of IPC, 1860 (Section 392/411/449 and 509 of IPC, 1860 added later on) registered at Police Station Sadar Kharar, District SAS Nagar.

2. Facts

Facts as narrated in the FIR reads as under:-

“Copy of Statement, Statement of Swaranjit Kaur wife of Dharam Singh, resident of Village Chak Sarai, Police Station: Sadar, Khanna, District: Ludhiana, aged about 48 years Mobile No. 98726-65355. Stated that I am a resident of the above-mentioned address and

working as a Teacher in Punjab Public Senior Secondary School, Rupalo. We are three siblings, I am eldest of all, younger to me is my brother Hardeep Singh, who along with his family lives in Australia with his family abroad, younger to him is my sister Gurpreet Kaur, who also lives with his family abroad in Italy. My mother Karnail Kaur had died in the year 2008, my father Rangi Singh after retiring as Superintendent from the High Court, was living alone in his ancestral home at Village Bhagomajra and for their household work, he has employed/ kept two Maids, namely, Anguri and Rajinder Kaur, who are also residents of Village Bhagomajra. That both these Malds were doing the work of cleaning of house and pareparing the meals etc. My father was five brothers, out of which Harkesh Singh and Rajinder Singh were living separately along with their families in the Village. Harkesh Singh has since died. Two brothers of my father are Lachhman Singh and Jagdish Singh, who are living at Mohali, they have also since expired. After the retirement of my father, my father was doing the work of Western Money Transfer and L.I.C. at their shop at Landran. Due to outbreak of CORONO Pandemic, he had closed his shop at Landran, then he started working from home and he was having monetary transactions with the residents and acquaintances in the. village, regarding which only he was having knowledge, that he was keeping the accounts in his personal diary, my father was also the Treasurer of Gurudwara Sahib of Village Bhagomajra. Yester dated 10.02.2022, at about 05.00 p.m. in the evening, I had called father Rangl Singh at his Mobile Number 97814- 23980 to know about his well-being, but his phone was switched office. Today on dated 11.02.2022, my sister-in-law ('Bhabhi') Baljinder Kaur wife of Himmat Singh, resident of Village Bhagomajra through What'sApp Call from her phone 98145-15619 told me that i the time was about 08.37 a.m., that, "some incident has occurred with your father Rangi Singh, you should reach Village Bhagomajra at the earliest", on which I along with my husband - Dharam Singh went to our Village Bhagomajra and on coming there, we came to know that my father Rangi Singh had died and my father

Rangi Singh fell down in the kitchen and the blood oozed out from his head and from his head, the turban was put off and shoe of his left foot was also took off and near his body, one cushion of Sofa and Burner of Gas Hearth were lying, that in the adjoining room, the lock of Cupboard was opened, which it seems, was searched and the articles were lying scattered. That the murder of my father Rangi Singh has been committed by some unidentified person/ persons, by pressing him with Cushlon of Sofa and stopping his breathing and by causing an injury in his head, was committed with an intention of looting and snatching, against whom appropriate legal action be taken.'

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 and he not even present at the time of alleged occurrence. The attention of this Court has been drawn to an order dated 25.01.2024 (Annexure P-3) passed by this Court in CRM-M-57997-2023 vide which main accused has already been enlarged on regular bail. He contends that the petitioner is in custody since 17.02.2022, wherein investigation is complete and nothing is to be recovered from the petitioner.

On behalf of the State

On the other hand, learned State Counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for 3 years 2 months and 13 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the petitioner has actively participated in the commissioning of offence, as there are call connections between him and the deceased.

4. **Analysis**

Considering the facts that the petitioner has already suffered incarceration of 3 years, 2 months and 13 and is a person of clean antecedents and it is a case of circumstantial evidence as the petitioner has been nominated later on after the mobile phone of the deceased was examined and on the basis of having call connections between the deceased and the present petitioner, the petitioner was nominated in the FIR. In addition to the fact that investigation is complete, charges have been framed on 09.09.2022 and out of total 28 prosecution witnesses, 10 have been examined so far, meaning thereby 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 “**Balwinder Singh versus State of Punjab and Another**”, SLP (Crl.) No.8523/2024. Relevant paras of the said judgment reads as under:-

“7. An accused has a right to a fair trial and while a hurried trial is frowned upon as it may not give sufficient time to prepare for the defence, an inordinate delay in conclusion of the trial would infringe the right of an accused guaranteed under Article 21 of the Constitution.

8. It is not for nothing the Author Oscar Wilde in “The Ballad of Reading Gaol”, wrote the following poignant lines while being incarcerated:

“I know not whether Laws be right,
Or whether Laws be wrong;
All that we know who be in jail
Is that the wall is strong;

*And that each day is like a year,
A year whose days are long.”*

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

01.05.2025
Meenu

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