

2025:PHHC:056074



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21663-2025

DECIDED ON: 30.04.2025

SATINDER SINGH ALIAS HAPPY

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Amandeep Singh, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG Punjab

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

This Second petition under section 483 of BNSS, for Grant of Regular Bail to the petitioner in a criminal case arising out of FIR bearing No. 101, dated 22.06.2024, registered under sections 307, 336, 353, 506, 186, 427 IPC, 1860 and Sections 25, 27 of Arms Act, 1959, at Police Station Haibowal, District Ludhiana.

2. Facts

Facts as narrated in the FIR reads as under:-

“SHO, Police Station Haibowal, Ludhiana. "Jai Hind" Today myself ASI along with ASI Jinder Lal No.2103/Ldh, ASI Roshan Lal No.1231/Ldh, Constable Surinder Singh No.2210/Ldh, Senior Constable Ravi Kumar No.3285/Ldh, Senior Constable Kashish No.2235/Ldh, Constable Gurwinder Singh No. 3646/Ldh, Sepoy

Lovepreet Singh No.3744/Ldh were going on government vehicle bearing number PB-10-FV-5946, make Ertiga, driven by PHG Gurnam Singh no.28997, in proper uniform towards Haider Enclave Colony conducting patrolling and checking of suspicious persons and when myself ASI along with police party reached below the Jassian railway line bridge, then on the spot a secret informer came present and stopped the government vehicle and gave information to myself ASI separately, that the accused Ravinder Singh @ Rajinder Singh @ Dega, resident of near Dairy of Swaran Singh, Mohalla Basant Nagar, Partap Singh Wala, Ludhiana in the FIR no. 98, dated 18.06.2024, u/S 307, 160, 427, 148, 149, 506 IPC and u/S 25, 27-54-59 Amrs Act, PS Haibowal, District Ludhiana who was among the unknown accused, is standing near a vacant plot from Chuaharpur to Laadiyan Ram Enclave Colony, upon which myself ASI along with police party reached near the vacant plot from Chucharpur to Laadiyan Ram Enclave Colony, where 02 persons were standing near the empty plot. When myself ASI along with fellow officials reached near the persons, then ASI Roshan Lal identified from both the persons, the accused Ravinder Singh @ Rajinder Singh @ Dega son of Gurcharan Singh, resident of House No. 604, near Swaran Singh's Dairy, Mohalla Basant Nagar, Pratap Singh Wala, Police Station PAU, Ludhiana and while identifying said that between the intervening night of 17/18.06.2024, he was involved in the fight and vandalism outside Sahil Kanda's house in Mohalla Chandra Nagar, street number 03 and your name is Ravinder Singh @ Rajinder Singh @ Dega son of Gurcharan Singh and after saying this, aforesaid Ravinder Singh @ Dega and his companion started putting their hands in their waist, then myself ASI alerted the police party and hide behind the government vehicle bearing number PB-10-FV-5946, make Ertiga and accused Ravinder Singh @ Rajinder Singh @ Dega fired in the dark on the police party, with the intention of kill, which hit the body of the government vehicle and the second firing shots in the air were given by the companion of accused Ravinder Singh @ Rajinder Singh @ Dega and both of them pointed their pistols

towards the police party and threatening to kill, then myself ASI, ASI Jinder Lal No.2103/Ldh, ASI Roshan Lal No.1231/Ldh, by taking the advantage of the lights of the government vehicle, started cross firing for self-defence from our own government pistols and during firing, one fire shot hit the right leg of Ravinder Singh @ Rajinder Singh @ Dega and one fire hit on the left leg of his companion. Then voice came that are died, spare us, upon which myself ASI, along with the help of fellow officials, quickly arrested both the accused and asked for their names and address, upon which Ravinder Singh @ Rajinder Singh @ Dega told his name as Ravinder Singh @ Rajinder Singh @ Dega, son of Gurcharan Singh, resident of House No. 04, near Swaran Singh's Dairy, Mohalla Basant Nagar, Pratap Singh Wala, Police Station PAU, Ludhiana and his accomplice told his name as Satinder Singh @ Happy son Nirmal Singh, resident of Haider Enclave. That by doing this both the accused, committed an offence under Sections 307, 336, 353, 506, 186, 427 of IPC and 25, 27, 54, 59 of Arms Act, regarding which ruqa of the above offence was written against the aforesaid accused Ravinder Singh @ Rajinder Singh @ Dega son of Gurcharan Singh, resident of House Number 04, near Swaran Singh's Dairy, Mohalla Basant Nagar, Pratap Singh Wala, Police Station PAU, Ludhiana and Satinder Singh @ Happy son Nirmal Singh, resident of Ram Enclave, Ludhiana and was sent to PS by hand through Constable Gurwinder Singh No.3646/Ldh, for registration of FIR. FIR be registered and its number be informed, Control Room be informed, Special report be issued. Myself ASI along with fellow officials are busy in further investigation. Sd/- ASI Sukhjinder Singh 391/Ldh, Incharge Police Post, Jagatpuri, Police Station Haibowal, Ludhiana. Dated 22-6- 2024.”

3. Contentions:

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and there is no iota of evidence coming forth against the petitioner. He further submits that the in the present case investigation

is complete, challan stands presented and nothing is to be recovered from the petitioner, who is in custody since 07.07.2024.

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. According to which, the petitioner is behind bars for 9 months and 25 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the petitioner is a habitual offender, as he is involved in other cases.

4. **Analysis**

Considering the custody period undergone by the petitioner i.e., 9 months and 25 days and no incriminating material has been put forth by the prosecution to connect the petitioner with the alleged commissioning of offence and no overt act has been attributed to the petitioner added with the fact that investigation is complete, challan stands presented on 29.08.2024, charges are yet to be framed and thereafter total 14 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 “**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.”*

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.

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

30.04.2025

Meenu

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