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

**CRM-M-22583-2025
DATE OF DECISION: 02.05.2025**

NIKHIL @ JANU

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Rajesh Nain, Advocate for the petitioner(s).

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This petition has been filed under Section 483 BNSS (erstwhile Section 439 of Cr.P.C.) for grant of Regular bail to the petitioner in case FIR No.198, dated 25.06.2024, under Section 148, 149, 307, 120-B of IPC, 1860 and Section 25 (1-B)(a) of Arms Act, 1959 (Section 25 (1-B)(a) of Arms Act deleted later and Section 201, 341 IPC and Section 25, 27 of Arms Act added later on), registered at Police Station Sector 13/17, Panipat, District Panipat, Haryana.

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

‘Copy of complaint is as follows: To the SHO, P.S. Sector 13/17 Panipat, Sir, it is requested that I, Suman W/o Bijender, is resident of Village Harisinghpura, Tehsil Gharaunda, District Panipat. I have two sons. My elder son Subham is doing BA from open University. My second son is studying, while residing in hostel. Manoj, resident of their village was having grudge for the



last three years because in a quarrel the nephew of Manoj namely Virender son of Sheelu had died at the hands of Subham in school in which Subham is on bail. Manoj and his Bhabhi Seema threatening us in village by saying them Mot Ka Badla Mot Hoga and they will kill Subham. Due to that grudge, on 25.6.2024 at about 11.00 A.M., my son Subham went Gharaunda for driving licence from where he went to village Pundri at about 5.40 P.M. alongwith his friend Arjun to drop him. When my son on his Bullet motorcycle reached at T-Point of Gram Panchayat land of village Garhsarnai, then 5-6 unknown persons fired upon her son Subham, one bullet hit on arm and one bullet hit on hip and her son fell down. The passersby took him in General Hospital, Panipat. She suspected that Garbin, Manoj son of Rampal and his Bhabhi Seema W/o Sushil attacked upon my son through known persons due to grudge with an intention to kill him. Legal action be taken against them. Applicant Suman Mob. No.9518645909.'

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 on the basis of the disclosure statement made by co-accused. He submits that no specific injury has been attributed to him and all the injuries are simple in nature and are on non-vital part of the body. He further submits that the petitioner was not named in the FIR. It is his further contention that only one black colour Pulsar motorcycle without number plate has been shown to be allegedly recovered from the petitioner. Moreso, the investigation in this case is complete as challan stands presented on 30.09.2024, charges stands framed on 03.01.2025 out of 33 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 petitioner is a habitual offender as he is involved in other FIRs also, moreover, one black colour Pulsar motorcycle without number plate has been recovered from him.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 9 months and 1 day, the petitioner was nominated on the basis of the disclosure statement of the co-accused, all the injuries are simple in nature and are on non-vital part of the body, no specific role has been attributed to him 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 30.09.2024, charges stands framed on 03.01.2025 out of 33 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 serve 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 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 land the petitioner in a situation of denial of the concession of bail.

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

02.05.2025
anuradha

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