

2025:PHHC:067319



207

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22498-2025
DECIDED ON:20.05.2025

RAM

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rohit Mittal, Advocate and
Mr. Monu Sharma, Advocate
for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG Haryana

SANDEEP MOUDGIL, J (ORAL)

1. **Prayer**

The jurisdiction of this Court has been invoked under section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023, with the prayer for grant of regular bail to the petitioner in case FIR No. 201 dated 21.07.2018 registered Under Sections 148, 149, 323, 325, 452, 506, 379-B, 120-B of IPC at Police Station Khol District Rewari (Annexure P-1).

2. **Facts**

Facts as narrated in the FIR reads as under:-

“Statement of Dharmendra S/O Virendra Caste Ahir R/O Nandha Police Station Khol District Rewari Age 26 Years Mobile No. stated that I am a 9306020366 resident of the above mentioned address and work in a private company at Gurgaon. Now I am staying at home for about 1 month. Tonight, I and my wife Deepa Yadav were sleeping in our room and my father Virendra Singh was sleeping in the verandah. At around 3:00 a.m.,

15-20 young boys, who were holding hockey sticks, swords and knives in their hands, suddenly entered the room by pushing the cooler in front of the room's gate and attacked me with hockey sticks, knives and swords. They hit me hard below the kneecap of both my legs, below the elbow of my right hand, on the left side of my head, on the right side of my hips, in my stomach and on my entire body. When my wife Deepa Yadav tried to save me, they caught her and threw aside. her My wife started screaming. They ran away threatening me that today I have been saved, if they get a chance next time, they will kill me. Then my wife Deepa Yadav switched on the light and on hearing the noise, my mother Ramesh Devi and my maternal aunt Snehlata came running. They took out of the me room father Virendra Singh was and saw that my also lying in a pool of blood on the cot in the verandah. The attackers first hit my father and then me very seriously. My wife told me that I was not injured. He told that the attackers took away his gold chain and money etc. My mother and my maternal aunt saw those attackers leaving and they had a Bolero vehicle and a car whose number plate was not attached to the vehicle. The attackers took away my Samsung mobile phone 9996646723 who was wearing capri and t-shirt. We have a land dispute going on with Rajendra alias Budhia and his brother Udaypal son of Jagdish Akwam Rajput resident Nanda. Many years ago Rs. 70000/- were taken from my father as interest against which we had given dead fort land to the farmers on which we used to give rent every year. Now Rajendra etc. sold that land to Sher Singh son of Shri Saroop Ahir resident Nanda but we have cultivated millet in the land. The money we had given to Rajendra etc. has become four lakh seventeen thousand after adding interest on the money and they have not returned our money which Rajendra etc. He, along with one of his relatives or friends, hatched a conspiracy and sent them to our house to cause injuries. Action should be taken against the attackers. I have written the statement, I have heard it and understood it, which is correct. SD/-”

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 disclosure statement of co-accused. He further submits that the co-accused Udaipal @ Udiya, Rajinder @

Budh have already been granted the concession of bail by the trial Court vide order dated 11.09.2018 (Annexure P-3). He asserts that the investigation in the matter is completed, challan stands presented to the Court 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 1 year 11 months and 3 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 facts that the petitioner has already suffered incarceration of 1 year, 11 months and 3 days and co-accused persons have already been enlarged on bail the trial Court added with the fact that investigation is complete, challan stands presented on 29.08.2023, charges have been framed on 20.01.2024 and out of total 29 prosecution witnesses, only two have been examined so far, which is suffice for this Court to infer that conclusion of trial shall take considerable time, therefore, this Court is of the view that 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 Nimesh 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.

20.05.2025
Meenu

(SANDEEP MOUDGIL)
JUDGE

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