



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

228

CRM-M-23203-2025

DATE OF DECISION: 06.05.2025

FATEHDEEP SINGH @ FATEH RANDHAWA

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Veneet Sharma, Advocate for the petitioner(s).

Mr. J.S. Rattu, DAG, Punjab.

Mr. Apanjyot Singh Virk, Advocate with
Mr. H.S. Sidhu, Advocate for the complainant.

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

This petition has been filed under Section 483 of The Bhartiya Nagarik Sanhita (BNSS), regular bail in Suraksha Sanhita 2023 for grant FIR No. case of 191 dated 25.10.2023 under sections 302, 307, 148, 149, 120-B of IPC 1860 and sections 25, 27, 29/54/59 of the Arms Act, 1959, registered at Police Station Cantonment, District Amrtisar.

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

‘Statement of Balwinder Singh son of Balkar Singh resident of Ratoke, Police Station Khemkaran, District Tarn Taran now



resided at House No.5, Street No.8, Moni Park, Police Station Islamabad ASR, aged about 65 years, Mobile No, 98552-63874. Stated that I am a resident of the above said address and I was working as guard till 2011 in Cooperative Sugar Mill Zira now I am doing my farming. Gurpraves Singh was my only son who is about 22 years old who was working as hotel manager at Khalsa College ASR. Today my brother Resam Singh son of Balkar Singh resident of village Ratte-ke had also come to our house and as it was Dussehra holiday, me and my son and wife Lakhwinder Kaur were present in my house. My son told me that my friend Sunital Singh alias Bal son of Ajmer Singh resident of Urban Estate Ram, Tirth Road, ASR has called him, but I stopped my son from going and said that today is the day of Dussehra, where are you going, even though I told him, my son left home at that time it was around 12/30 PM. Me and my brother Resam Singh also took his motorcycle towards Bal's house and went to Ram Tirth Road. When we reached Radha Swami Dera, Ram Tirath Road, I saw that my son Gurpraves Singh was sitting in his friend Bal's car and Ball was driving the car and were going towards the bypass. We took our motorcycle behind them. Just ahead of Holy City Bridge before the bypass, there was already an accident of Innova Crista and Verna car. Some boys were already standing there. Ball also stopped his car and got out of the car and started talking to the boys. At that time it was around 2.00 PM. We were a little behind and 3-4 cars came from our rear side, out of which 10/12 boys got out. One of the boy's named Fateh Randhawa from Kukrawala started fighting with Ball and Fateh Randhawa took out his pistol and started hitting the butt of the pistol on Bal's head. Whereupon Bal and Fateh Randhawa got into a fistfight. My son Gurpraves Singh started to free them but the others boys who were accompanying Fateh Randhawa took out their respective weapons and started firing directly with an intention to kill and one fire hit my son Gurpraves Singh on the left side of his waist and some bullets also hit left side of his stomach. Me and my brother raised the alarm of killed-Killed. Then Fateh car along with their own weapons and escaped from the spot. My son fell down on the



ground. I along with my brother Resham Singh and some of the boys got him admitted in Amandeep Hospital ASR after arranging the vehicle. However, he died during the treatment. Now I have come to know that my boy's friend Sunitpal Singh alias Bal has been shot in the left arm and another boy who is standing next to Ball is Sawanpreet Singh son of Gurbhaj Singh resident of village Kombo ASR, was shot in both the legs. Both these boys are under treatment at Guru Nanak Dev Hospital ASR. The boys who shot, Fateh Randhawa, Garwinder Maan Bagga, Parman, and Bhola Lada, about them I have come to know. I can easily recognize the others in case they appear before me. The cause of enmity is that Sunitpal Singh already had tussle with Fateh Randhawa. However, excesses have been committed with us, strict action be taken against the accused persons. SD/ Balwinder Singh"

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. As per the allegations, the petitioner hit the butt of the pistol on Bal's Head but no injury has been caused by the petitioner on the person of the deceased-Gurpraves Singh. He has further argued that the antecedents of the petitioner are clean. He submits that similarly situated co-accused persons have already been granted concession of regular bail by this Court. Moreso, the investigation in this case is complete as challan stands presented on 29.06.2024, charges are yet to be framed and prosecution has cited 46 witnesses which are yet to be examined, 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 and counsel for the complainant

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 and counsel for the complainant opposes the prayer for grant of regular bail. He has produced a tabular form of injuries caused, but none of the injury is declared dangerous to life and can be termed to have given with an intent to kill except grievous as pointed by the learned State Counsel.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 11 months and 11 day, similarly situated co-accused have already been granted concession of bail by this Court, moreover, the petitioner has given no injury to the deceased and rather gave an injury to Bal with butt of the pistol; antecedents of the petitioner are clean, meaning thereby he is not a habitual offender, no injury has been declared as dangerous to life, 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 29.06.2024, charges are yet to be framed and prosecution has cited 46 witnesses which are yet to be examined, 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 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 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

06.05.2025
anuradha

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