



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

232

CRM-M-23325-2025

DATE OF DECISION: 06.05.2025

SURENDER KUMAR

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. D.S. Virk, Advocate for the petitioner(s).

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

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

The jurisdiction of this Court has been invoked under Section 483 BNSS seeking regular bail in case FIR No.22 dated 31.01.2023 under Sections 406,420,467,468,471,506,120-B,34 IPC and Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013 registered at P.S Ding, District Sirsa.

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

‘Vikram Sukhralia son of Sh. Hukam Chand resident of village Mochiwali Tehsil and District Sirsa, complainant vs. 1. Akint Agarwal resident of RIOC 802 Gayatri Shivam 90 Foot Road Thakur Complex, Kandivali East Mumbai Maharashtra 2.



Surendra Pal son of Neki Ram 3. Jaipal son of Sh. Neki Ram resident of village Mochiali Tehsil and District Sirsa 4. Shiv Kumar son of unknown accused under Istgaasa Section 420/467/468/471/506/34/406/120-B IPC Police Station Ding. Sir, 1, complainant makes the following statement that the complainant is the resident of the above address and is a peace loving, law abiding citizen. 2. That on 13-2-18, the applicant had taken a loan of Rs. 1,50,000 from Landing Park Solution Pvt. Ltd. Company through accused No. 2 Surendra son of Neki Ram, who is the main person of the company. Accused No. 2 had got the applicant's signed on the three cheques of HDFC Bank of account number 50100228913020 and some blank papers as security. Landing Park Company had its office on Ding Road. The default installment of the applicant's loan was Rs. 8081/-, which the applicant kept paying without any interruption and on 3-6-2020, the applicant had paid the entire amount of the said loan along with interest. The applicant used to pay the installment of his loan either in cash to the accused Surendra or sometimes used to deposit the installment in the company's HDFC bank account no. 5700000049932 in cash but the company did not provide any receipt for the installment which were deposited by the applicant. 3. That despite the completion of the loan installment of the applicant, the accused Surendra deducted an amount of Rs. 500/- from the above mentioned HDFC bank account of the applicant by copying the signature of the applicant through fake ECS. When the applicant complained about this to the company, Surendra Kumar said that according to the company, one more installment is made out from your side, if you pay that, your loan will be completed. Even after the applicant paid the additional installment, the accused kept harassing the applicant by calling repeatedly, in respect of which the applicant gave a complaint on cm window CMOFF/M2021/001430 dated 6.1.21, but despite giving NOC, by hatching a criminal conspiracy, they filled the bank cheque of



Rs.65543/- of the applicant and tried to withdraw the money by depositing it in his bank account on 11-7-22, but due to lack of money in the bank account, the cheque bounced, in respect of which a complaint was given CM Window CMOFF/N2022/081374 dated 18-7-22, the investigation of which was carried out by Ding police station. In connection with this complaint, Surendra Kumar's younger brother Jaipal son of Neki Ram was called as a credit manager to Landing Park Solution Pvt. Ltd., where Jaipal submitted some documents of the company to Police Station Ding during the investigation, which clearly showed that the applicant's loan amount of Rs 22,000 is outstanding, which is completely wrong. The applicant has already paid the entire loan amount by paying one more installment. Then the applicant gave a complaint number 4674 PC dated 29-8-22 in the office of Superintendent of Police, Sirsa, which was marked by Superintendent of Police Sirsa to Police Station Ding, which was later sent to the Economic Offences Wing from Police Station Ding for investigation. Even while the investigation of the complaint was underway, the accused filled another bank Cheque of Rs 142950/- in their account on 30-9-22, which bounced due to lack of money in the bank account of the complainant. In this way, all the above accused are repeatedly getting the cheques of the complainant bounced by misusing the cheques taken from the complainant as security and on the basis of false facts, whereas the complainant has paid the entire loan amount, whose NOC was also made available to the complainant by the company on 8-3-21. Applicant had taken a loan of one lakh fifty thousand rupees from the company and applicant was registered as a witness in the company. Apart from this Applicant has nothing to do with the company. The accused are using the cheque taken as security to harass applicant and have made a fake ES in applicant's HDFC bank account by using the fake signature of applicant. It is pertinent to write that the accused have done this



earlier also with many of their customers, regarding which many applications have been given to the SP Sirsa. 4. That the witnesses of this entire incident are Rajveer son of Shri Vijay Pal resident of village Mochiwali District Sirsa Tehsil and District Sirsa, Mange Ram son of Raghuveer Singh resident of village Kukadthana, Surendra Nehra son of Bhola Ram resident of village Farwai Kala District Sirsa who is also an employee of the company and Raj Kumar son of Daya Ram resident of GT Road opposite MM College Fatehabad. 5. That despite filing complaints in the police in this regard, the police is not taking any action against the accused, rather the accused are threatening to kill the victim. Therefore, the present petition is being filed in the Honorable court. 6. That the victim is a resident of village Mochiwala District Sirsa and the above mentioned matter is committed in the jurisdiction of Police Station Ding, which comes under the judicial jurisdiction of your Honorable court, hence you have the right to hear the present petition. 7. That the prescribed court fee has been pasted on the petition. Therefore, by presenting the application it is requested that the accused, by being accomplices in the conspiracy, have cheated the applicant, have committed breach of trust and have threatened to kill the applicant, thus the accused have committed the offence under Section 420/467/468/471/506/34/406/120-B IPC, hence the accused should be summoned under these sections and given severe punishment. Sirsa/Date:17/12/22 Sd/- Vikram Singh Applicant Vikram Sukhraliya son of Shri Hukam Chand resident of village Mochiwali Tehsil and District Sirsa,

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. He submits that no offence is made out against the present petitioner as he has not



committed any forgery with the complainant at any point of time rather it was complainant who committed fraud with the company and falsely roped the petitioner in the present FIR. He further submits that similarly situated co-accused namely Jaipal and Shiv Kumar have already been granted concession of anticipatory bail by this Court vide order dated 24.04.2025 passed in CRM-M-16833-2025 and CRM-M-20906-2025 (Annexure -4 and P-5). Moreso, the investigation in this case is complete as challan stands presented on 18.03.2025 charges stands framed on 06.05.2025 out of 13 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 FIR, moreso, the cheques of the complainant were used in order to encash the same despite the fact that no objection certificate was issued in his favour, but is not in a position to controvert the submissions made by learned counsel for the petitioner.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 4 months and 15 days, similarly situated co-accused have already been granted



concession of anticipatory bail by this Court, nothing is to be recovered from the present petitioner 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 18.03.2025 charges stands framed on 06.05.2025 out of 13 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 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 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 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

06.05.2025
anuradha

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