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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23825-2025
DECIDED ON: 08.05.2025

ANMOL SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. K.S. Bhardwaj, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 483 of BNSS, 2023 seeking the concession of regular bail for the petitioner in FIR No. 22, dated 09.11.2023, Registered under Section 384, 506, 411, 120-B of IPC, Sections 25,25(7), 54 and 59 of the Arms Act, at P.S. State Special Operation Cell (SSOC), District SAS Nagar, Mohali.

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

‘Copy Rukka, Chief Officer Police Station, S.O.S.C., Mohali, Jai Hind, I SI was present today at the police station, and then it was around 12:45 PM that the special informant informed me that Gaurav Patial, alias Lucky, son of Surinder Singh, a resident of village Khudda Lahora Chandigarh, who belonged to the Devinder Bambiha group and he is main leader, and he is extorting money by threatening to kill rich people of Punjab by

sitting abroad, and in this work he is being helped by India-based Jagjit Singh, alias the Chinni son of Dharampal Singh, resident of Ram Nagar Boli, Moga; Anmol Singh, son of Kaka Singh, resident of Jadhawal Basti; Ludhiana Hall resident of Teacher Colony, Moga; Manpreet Singh, alias Mani, son of Kuldeep Singh, resident of No. 1 Gali Sant Nagar, Moga; and other unknown accomplices to whom Lucky Patial has sent arms in huge quantity. All these are members of the criminal gang of Davinder Bambiha. Today, on the request of Lucky Patial, they rode on a black motorcycle numbered PB 29 AD 3614, Mark splendor, with illegal ammunition, and are coming Ludhiana to Mohali to carry out target killing in the Mohali area. If the route coming from Ludhiana to Mohali is monitored, these heavy weapons can be controlled along with ammunition. The declaration is firm and reliable. That the said persons conspire together to do so is an offense 384,506,120-B IPC, 25, 25 (7) Arms Act 1959. On that rukka sent against Gaurav Patial alias Lucky son of Surinder Singh resident of village Khudda Lahora Chandigarh, Jagjit Singh, alias Chinese son of Dharmapal Singh, Resident of Ram Nagar Bowli, Moga, and Anmol Singh Son of Kaka Singh Resident of Jadhawal Basti, Ludhiana Hall Resident of Teacher Colony, Moga, Manpreet Singh alias Mani, son of Kuldeep Singh, resident of No. 1 Gali Sant Nagar, Moga, and other unknown accomplices in the hands of HC/LR Avinash Singh 2675/INT I am sending the case to the police station. The number of cases should be known by registering the cases. Special reports to be issued. I went for an investigation. In area: INVESTIGATION ROOM SSOC, SAS Nagar, Time: 01:25 PM Correct/- SI Manpreet Singh, 760/INT Police Station S.S.O.C., S.A.S. NAGAR DATE 09/11/2023, today after receiving rukka FIR NO. 22 dated 09/11/2023 u/s 384,506,120-B IPC, 25, 25 (7) Arms Act 1959 Ghata Prem. SOSC, SAS Nagar Against Gaurav Patial, alias Lucky, son of Surinder Singh, resident of Village Khuda Lahora,

Chandigarh, Jagjit Singh, alias Chinese, is the son of Dharmapal Singh, resident of Ram Nagar Banli, Moga; Anmol Singh, son of Kaka Singh, resident of Jadhawal Basti; Ludhiana Hall, resident of Teacher Colony, Moga; Manpreet Singh, alias Mani, is the son of Kuldeep Singh, resident of No. 1 Gali Sant Nagar, Moga; and other unknown persons have been registered under 384,506,120-B IPC, 25, 25(7) Arms Act 1959. Officers were informed about the case. Copies of the FIR as special reports are handed to S/CT Harvinder Singh, 82/644 District Magistrate, and sent for officers. File of case by hand HC/LR Avinash Singh 2675/INT to SI Manpreet Singh 760/INT, sent towards investigation officer; record has been available to Chief Munshi of Police Station.'

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner is at parity with co-accused Sukhchain Dass @ Deepu, who has been granted the concession of regular bail by this Court vide order dated 17.03.2025 (Annexure P-4) passed in CRM-M-47004-2024. He further contends that as per the prosecution story, the allegation against the petitioner is that 01 pistol and .32 bore live cartridges were recovered from the present petitioner but there is no allegations qua any gun shot injury. It has been contended on behalf of the petitioner that the petitioner is not a habitual offender as he is not involved in any other case.

On behalf of the State

On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition on the ground that 01 pistol and .32

bore live cartridges were recovered from the present petitioner. However, he does not dispute the fact that there is no gunshot injury attributed to the present petitioner.

4. **Analysis**

Be that as it may, considering the custody period undergone by the petitioner i.e. 01 year, 05 months and 23 days added with the facts that the petitioner is at parity with co-accused Sukhchain Dass @ Deepu, who has been granted the concession of regular bail by this Court vide order dated 17.03.2025 (Annexure P-4) passed in CRM-M-47004-2024; there is no allegation of gun shot injury by the petitioner; the petitioner is not a habitual offender as he is not involved in any other case, as is evident from custody certificate produced today before this Court by learned State counsel; investigation is complete, wherein after framing of charges on 20.11.2024 out of total 17 prosecution witnesses, none has been examined so far, which is suffice for this Court to infer that the conclusion of trial shall take considerable time, this Court is of the considering view that 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.”*

5. **RELIEF:**

In view of the discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on him 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.

08.05.2025

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No