

2025:PHHC:072700



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

**CRM-M-28410-2025
DECIDED ON: 27.05.2025**

NISHAN SINGH @ VICKY

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Jasvir Singh Dhaliwal, Advocate
for the petitioner.

Mr. Rajiv Verma, Sr. DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked seeking regular bail to the petitioner in FIR No. 26, dated 18.02.2019, under Sections 323, 325, 148 and 149 IPC (Section 302 was added later on vide DDR No. 10, dated 26.02.2019 and offence under Sections 148 & 149 IPC were deleted and offence under Section 34 IPC was added on 03.08.2020 vide DDR No. 26) registered at Police Station Goindwal Sahib, Tarn Taran.

2. Facts

The brief facts of the present case, as narrated in the FIR reads as under:-

“Statement of Gurpreet Singh son of Labh Singh Caste Mazbi Sikh, resident of Chhapri Sahib, Police Station: Goindwal

Sahib, aged about 23 years, mobile No.98723-08785, stated that I am resident of abovesaid address and I am doing labour work. We are five brother-sisters, the eldest one is Mangal Singh, younger to him is Jassa Singh, younger to them sister Sukhbir Kaur, who is married, younger to her sister Jassi Kaur and I am the youngest. There is a house situated in front side of our house is belonging to Nishan Singh son of Jaswant Singh. On 08.02.2019 at around 3 PM, I was going towards house through my street, then Satnam Singh @ Sattu son of Jaswant Singh caste Mazbi Sikh resident of Chhapri Sahib hit his motorcycle from the backside, then I told him that drive the motorcycle carefully and while using bad language to me, he went to his house. At around 7 PM, I was standing in the street in front of the outside gate, where abovesaid Satnam Singh @ Sattu armed with Dattar, Nishan Singh @ Vicky son of Jaswant Singh with baseball, Sukhchain Singh @ Chaina son of Hazara Singh with gandasi, Sarabjit Singh son of Puran Singh with stick, Satnam Singh son of Sarabjit Singh with stick and Hardeep Singh @ Sandhi son of Hazara Singh with stick, caste Mazbi Sikh, residents of Chhapri Sati, came out from the house of abovesaid Satnam Singh and on seeing me, abovesaid Nishan Singh raised 'Lalkara' that catch him hold, teach him a lesson to raise any dispute with Satnam Singh by Gurpreet Singh, thereafter abovesaid Satnam Singh gave blow with the reverse side of his dattar on me, which landed on the ankle of my right leg, in the meantime, Sarabjit Singh son of Puran Singh gave blow with his dattar on me, which landed above on my left knee. After hearing my voice/ alarm, my mother Jagir Kaur wife of Labh Singh and father Labh Singh son of Gulzar Singh forwarded to rescue, then Nishan Singh @ Vicky gave blow with his baseball on my father Labh Singh and when he tried to backout for save himself, then the blow landed in his head from the backside, then my father fell down there itself after getting unconsciousness and my mother Jagir Kaur tended

my father, then abovesaid Hardeep Singh @ Sandhi gave blow with his stick on my mother, which landed in the backside of her head and Satnam Singh son of Sarabjit Singh also gave blow with his stick on my mother, which landed on elbow of her left arm. We raised alarm 'mar ditta - mar ditta', then after hearing the alarm, my paternal uncle Sahab Singh son of Kartar Singh and his son Sucha Singh came at the spot and other people also gathered and the accused fled away from the spot with their respective weapons. This entire occurrence was seen by my paternal uncle Sahab Singh, his son Sucha Singh and my sister-in-law (Bhabhi) Ramandeep Kaur wife of Mangal Singh. Then my paternal uncle Sahab Singh and my sister-in-law (Bhabhi) Ramandeep Kaur got us admitted in Civil Hospital Khadoor Sahib after getting the docket passed from the police-post and after giving the treatment to my mother, the Doctor discharged my mother on 10.02.19 and my father was referred to Guru Nanak Dev Hospital due to deep wound and on 16.02.19, my father was discharged after treatment and my father was got admitted in Guru Nanak Hospital again on the same day due to the reason that he was not fine and on 17.02.19, my father was referred to Shree Guru Ramdas Charitable Hospital Amritsar. Due to the critical condition of my father, he is under treatment. The reason/ estrangement is that our houses (our house and Satnam Singh @ Sattu's house are situated in front of each other. There was a fight/ dispute occurred earlier between us, wherein the respectable persons of the village got the matter compromised. Today, I alongwith my paternal uncle Sahab Singh, was coming to you to give the information, you met. I have submitted MRs and X-Ray reports belonging to me and my mother Jagir Kaur and MLR of my father. Till date, the respectable/ persons were trying to get the matter solved/ compromised between us, but it could be succeeded. I have got my statement recorded, heard, it is correct. I am the complainant, action be taken. Sd/- Gurpreet Singh.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It is further contended that there is an unexplained delay of 11 days in the registration of the FIR. It is also submitted that initially, the petitioner was placed in Column No. 2 of the Final Report filed under Section 173 Cr.P.C.; however, he was subsequently summoned under Section 319 Cr.P.C. after a lapse of four and a half years.

On behalf of the State

On the other hand, learned State counsel has produced the custody certificate of the petitioner in Court today, which is taken on record. As per the certificate, the petitioner has undergone incarceration for a period of 4 months and 23 days as of now. He opposes the present petition, contending that the allegation against the petitioner is that he inflicted a blow with a baseball bat on the person of Labh Singh, which resulted in his death.

4. **Analysis**

A significant factor that weighs with the Court while considering the present petition is that the petitioner was initially placed in Column No. 2, but was subsequently summoned by the trial Court under Section 319 Cr.P.C. Furthermore, it is noteworthy that since the framing of charges on 09.10.2019, only one out of a total 22 prosecution witnesses has been examined to date, indicating that the trial is progressing at a very slow pace. Consequently, the conclusion of the trial is likely to take a considerable amount of time, and the petitioner cannot be kept in custody for an indefinite period.

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.

27.05.2025
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(SANDEEP MOUDGIL)
JUDGE

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