



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

210

CRM-M-27447-2025

DATE OF DECISION: 23.05.2025

HARIPAL @ RAVI

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms.Shreya Bublani, Advocate for
Mr. Zorawar Singh Chauhan, Advocate the petitioner(s).

Mr. Rajiv Verma, Sr. DAG, Punjab.

Mr. M.S. Kaajan, Advocate for the complainant.

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

This petition has been filed under Section 483 of the BNSS, 2023 seeking the concession of regular bail for the petitioner in FIR No.10 Dated 16.03.2025 U/s 115 (2), 126 (2), 351 (2), 190 of BNS and offence under Sections 117 (4) and 238 of BNS was added later on, registered at Police Station City Ahmedgarh District Malerkotla.

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

"Copy of Statement: Statement of Mandeep Badhan son of Kishori Lal Badhan resident of Jageda Road Ward No.04, Ahmedgarh aged about 36 Mobile No.98551-59166. It is stated that I am resident of above mentioned address. I take care of cattle. My marriage was solemnised about 04 years back.



I have a son, who is about 2 years of age. On 14.03.2025 at about 09:00 PM, when I and my brother Kamaldeep Badhan and my mother and father were present at home, my brother Kamaldeep Badhan who has gone to give meal to the dogs kept on 3rd floor of our house, in the meantime I was ready to put lock to main gate of our house, then Balwinder Kumar @ Vicky hit the gate with brick and his brother Haripal @ Ravi and third brother Narinder Kumar @ Nandu and their father Hans Raj son of Sadhu Ram and his cousin brother Rahul son of Yashpal Singh, came together and they cordoned me all started giving beatings to me. I fell down and they all were giving beatings to me when I was down. When I was down, Balwinder Kumar @ Vicky gave iron rod blow in my head, thereafter Hari Pal @ Ravi gave knife on my left hand which hit on my left arm, thereafter, when I was down, Narinder Kumar @ Nandu gave kicks to me, which hit on right side of my stomach. Thereafter above persons continued to give me beatings when I was down. Then in the meantime my brother Kamaldeep Badhan, who had gone to give meal to the dogs on 3rd floor of our house, came and then above persons ran away from the spot. As I was in lot of pain, so my brother Kamaldeep Badhan got me admitted to Hind Hospital, Ahmedgarh where I am under treatment. This entire incident has been witnessed by my brother Kamaldeep Badhan.'

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. She submits though the petitioner was named in the FIR but no injury has been attributed to him as per the MLR of the complainant. She contends that co-accused namely Rahul, Hans Raj and Narender Kumar have already been granted concession of anticipatory bail vide order dated 28.04.2025 passed in CRM-M-22387-2025. She urges that the victim in the present case has suffered four injuries which have been mentioned as blunt and



and the same has been attributed to the co-accused persons and the injury alleged to have been caused by the petitioner is with knife but as per medical record no sharp injury has been suffered by the complainant. She has further argued that the antecedents of the petitioner are clean, therefore, prays for grant of regular bail to the petitioner.

On behalf of the State and 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 stating that investigation in this case is not complete as challan has not been presented yet, moreso, the petitioner along with co-accused alleged attacked the complainant and gave injuries to him.

4. Analysis

From the above discussion, it can be culled out that the petitioner has not given any sharp injury to the complainant which is evident from the MLR; he has already sufficient incarceration i.e. 1 month and 28 days; similarly situated co-accused have already been granted concession of anticipatory bail by this Court; antecedents of the petitioner are clean, meaning thereby he is not a habitual offender, and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt, 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

23.05.2025
anuradha

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