



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26928-2025
DECIDED ON: 22.05.2025

GURPREET SINGH AND ANOTHER

.....PETITIONERS

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. A.S. Khosa, Advocate
for the petitioners.

Mr. Rajiv Verma, Sr. DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked for the second time under Section 483 BNSS prayer for regular bail in FIR No. 256 Dated 04.12.2024 under sections 303(2), 338, 336 (3), 340(2), 61(2) of BNS, 2023 (sections 238, 317(2) of BNS 2023 added later on) registered at Police station City 1 Abohar, District Fazilka.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

SHO City 1 Abohar, Jai Hind, in relation Kar Government, it is requested that today me ASI along with Snr constable Manjinder Singh No 349/Fazilka, Snr Constable Rakesh kumar No 1247/FZK, P.H.C Tai Chand No 6751 on private vehicle regarding patrolling were present near Palli Dhaba Malout road Abohar, then informer came and gave

information that soni s/o Gurcharan Singh s/o Dharam Singh r/o Pauri road Gidderbaha and Jagga Singh s/o Bachitar Singh r/o Jangi Rana District Bathinda, who stolen bikes around Abohar city and Gurpreet Singh s/o Jasveer Singh r/o Teona, who running motorcycle agency namely Teona motors at Tawandi sabo and its manager Sukhwinder Singh s/o Amarjit Singh r/o Fatehgarh Nu Abad near Talwandi Sabo are involved with them. That Soni and Jagga steal the motorcycles and take it to this place and agents involved with them, who got duplicate RCS of stolen motorcycles and forged signatures of the owner and prepared affidavits regarding sale and sold the motorcycle to the innocent people on full rate and transferred Rcs on the name of other persons with the help of agents. Today above soni and Jagga on motorcycle without number plate and moving around Abohar city with stolen motorcycle and they will go back Gidderbaha by Malout road. If Naka laid down on proper place, then they will nab with stolen motorcycle. That information his strong and believable. That this act of the accused attracts the offence u/s 303(2), 338, 336(3), 340(2), 61(2) of BNS.”

3. Contentions

On behalf of the petitioners

Learned counsel for the petitioners contends that petitioner No.1 is the owner of the agency i.e. Teona Motors at Talwandi Sabo and petitioner No.2 is his manager, who neither purchased any motorcycle without papers from the co-accused persons nor prepared any fake documents and sold any stolen motorcycle to anyone. He further contends that co-accused namely Varinder Singh @ Barinder Singh @ Bhinder Singh, Jagga Singh and Soni have already been granted the concession of regular bail by this Court vide orders dated 27.03.2025 (Annexure P-3), 08.04.2025, 08.04.2025 passed in CRM-M-11954-2025, CRM-M-9998-2025 and CRM-

M-18292-2025 respectively. It has been contended on behalf of the petitioners that the petitioners are not habitual offender as they are 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 petitioners today in Court, which is taken on record. He would submit that the assertion of the petitioners cannot be believed to be true that they were not aware of having purchased the stolen motorcycle since it is their primary duty as a bona fide purchaser to check the genuinity of the vehicle received by them and the same is easily available and can be tracked on Vahan.com.

4. **Analysis**

Be that as it may, considering the custody period undergone by the petitioners i.e. 05 months and 12 days and added with the facts that co-accused namely Varinder Singh @ Barinder Singh @ Bhinder Singh, Jagga Singh and Soni have already been granted the concession of regular bail by this Court vide orders dated 27.03.2025 (Annexure P-3), 08.04.2025, 08.04.2025 passed in CRM-M-11954-2025, CRM-M-9998-2025 and CRM-M-18292-2025 respectively; the petitioners are not habitual offender as they are not involved in any other case, as is evident from custody certificates produced today before this Court by learned State counsel; the petitioners are on much better footing than co-accused Jagga Singh and Soni, who are allegedly involved in selling of stolen articles. There exists a plausible doubt, the benefit of which should be extended to the petitioners at this stage while considering regular bail. It is possible that the petitioners were

unaware of the facts in question, which will ultimately be subject to adjudication by the trial court upon examination of evidence.

Also considering the fact that investigation is complete, wherein after framing of charges on 13.03.2025 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 petitioners 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 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.”*

5. **RELIEF:**

In view of the discussions made hereinabove, the petitioners are hereby directed to be released on regular bail on their 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.

22.05.2025

Poonam Negi

**(SANDEEP MOUDGIL)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*