

2025:PHHC:071352



216

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

**CRM-M-28044-2025
DECIDED ON: 26.05.2025**

KULWINDER KAUR**.....PETITIONER**

VERSUS

STATE OF PUNJAB**.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. P.K.S. Phoolka, Advocate for the petitioner.

Mr. Rajiv Verma, Senior DAG Punjab

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

The jurisdiction of this Court has been invoked for the 2nd time under Section 483 of BNSS, 2023 grant of regular bail in FIR No.83 dated 22.05.2024 (Annexure P-1) under Sections 306, 506, 34 of IPC, 1860 (Section 506 IPC deleted later on) registered at Police Station Lambi, District Sri Muktsar Sahib.

2. Facts

Facts as narrated in the FIR reads as under:-

“Statement of Gurpreet Singh son of Charhat Singh son of Gurdial Singh, resident of Village Kangan Khera, aged about 24 years, Mobile No. 98784 38639. Stated that I am residing at above noted address and is agriculturist by profession. We are two brothers & one sister. All three are married. The marriage of my elder brother Lovepreet Singh had taken place on 19.2.2024 with Kulwinder Kaur daughter of Ram Chand, resident of Village Burj, Tehsil Ratia, District Fatehabad (Haryana) as per religious rites & ceremonies. After few days from marriage, my sister in law (bharjai) Kulwinder Kaur started having quarrel with my brother Lovpreet Singh. The dispute kept rising with

the passage of time. My brother Lovpreet Singh started remaining silent & sad. I asked my brother time & again as to what is reason, on which, he said that my wife Kulwinder Kaur use to have telephonic conversation as well as chatting & video calls with someone, I have tried to persuade her time & again, but she is not mending her ways, due to which reason, 'I am so upset. My brother Lovpreet Singh further told me that I have also asked my mother in law Reshma wife of Ram Chand, resident of Village Burj, Tehsil Ratia that you may persuade your daughter, on which, my mother in law went to say that my daughter is having friendship with Vijay Kumar son of Malkit Singh, resident of Village Raipur, Tehsil Ratia since long period, hence she will keep having conversations with him My brother told me that telephonic conversations often take place between Mobila No. 93504 43619 of my bharjai Kulwinder Kaur, Mobile No. 94180 52371 of said Vijay Kumar & Mobile No.9568567688 belonging to Reshma (his mother in law). After due consideration, we family dropped my bharjai at Village Burj, Tehsil Ratia, but even after that, Kulwinder Kaur & Reshma kept of harassing my brother. Hence my brother Lovpreet Singh, having fed up at the hands of Kulwinder Kaur, Reshma (mother in law) and Vijay Kumar, friend of my bharjai, consumed the insecticide, lying in store, As his condition was so serious, hence we got him admitted in Juneja Hospital, Malout, from where the Doctor, keeping in view his condition, further referred to AdeshHospital, where my brother Lovpreet Singh passed away on 21.5.2024 at about 06.00 Hrs. during the course of treatment. My brother Lovpreet Singh has committed suicide by consuming insecticide on having fed up at the hands of his wife Kulwinder Kaur, Reshma, mother in law, residents of village Burj, Tehsil Ratia, District Fatehabad and Vijay Kumar, friend of his wife Kulwinder Kaur, son of Malkit Singh, resident of Village Raipur, Tehsil Ratia, District Fatehabad. Hence due legal action may be please taken against all three of them. Statement got recorded with you, heard, it is correct. Sd/ Gurpreet Singh."

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 the story narrated by the complainant is highly improbable since as per the facts narrated in the FIR, there is no allegation of instigation at the hands of the present petitioner for compelling the

deceased-Lovepreet Singh to commit suicide and there is no suicide note which would corroborate the version of the complainant, therefore, no offence under Sections mentioned above is made out. He has further argued that the antecedents of the petitioner are clean and no fruitful purpose would be served by keeping the petitioner behind the bars as conclusion of trial would take long time as out of total 14 Prosecution Witnesses, none has been examined so far.

On behalf of the State

On the other hand, learned State Counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for 1 year 1 day.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that due to illicit relations of his wife (petitioner) with Vijay Kumar, the deceased used to remain depressed, therefore, there are direct allegations against the petitioner.

4. Analysis

Be that as it may, considering the fact that State has failed to produce any cogent evidence to establish immediate provocation or instigation on the part of the petitioner, particularly in the absence of a suicide note. As for the other contentions namely, that there were direct allegations and frequent quarrels between the petitioner and the deceased arising out of misunderstandings and discord these alone are not sufficient to constitute an offence under Section 306 of the IPC. Such disputes between a husband and wife may be considered part of the ordinary wear and tear of marital life and, without credible and substantial evidence, cannot be treated as instigation or abetment to suicide.

In the instant case, the petitioner has already suffered incarceration of 1 year, 1 day and is a person of clean antecedents; co-accused has already been

granted the concession of regular bail by this Court vide order dated 14.11.2024 (Annexure P-2) passed in CRM-M-54226-2024 added with the fact that investigation is complete, challan stands presented on 20.07.2024 and charges stands framed on 24.09.2024, out of 14 prosecution witnesses, none has been examined so far which is sufficient for this Court 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 *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 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.

26.05.2025

Meenu

(SANDEEP MOUDGIL)
JUDGE

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