IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

219 **CRM-M-27157-2025**
DATE OF DECISION: 22.05.2025

NARESH **...PETITIONER**

Versus

STATE OF HARYANA **... RESPONDENT**

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.I.S. Gahlawat, Advocate for the petitioner(s).

Mr. B.S.Virk, Sr. DAG, Haryana.

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SANDEEP MOUDGIL, J (ORAL)

1. **Prayer**

This petition has been filed under Section 483 of the B.N.S.S. 2023 for grant of regular bail to the petitioner in case bearing F.I.R. No. 15, dated 12.01.2024, under Section 406 IPC (Sections 420, 467, 468, 471 and 120-B IPC added later on) registered at Police Station Dharuhera, District Rewari (Annexure P-1).

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

> '*Subject: Complaint against financial fraud and forgery against Varuna Integrated Logistics Pvt. Ltd. by the following accused: 1. Vinod Kumar Jain S/o V.P. Jain. RJo 1640, Kashmiri Block, Tarithankar Nagar, Jain Nagar, Karala (North-West), Delhi-110081 also at: 1260, Rani Bagh, Shakur Basti, New Delhi 110034 (Accused No. 1 ") 2. New Mittal Motor Store, through its proprietor Mr. Krishan Chand ("Accused no. 2") at Truck Market,*

Main Road, Khanori Mandi, Punjab- 148207 having GST No. 03BDZPC8786L1ZN 3. Soni Mittal ("Accused No.3"), working at and responsible for the day to day activities of at New Mittal Motor Store. 4. Pali ("Accused No.4"), working at and responsible for the day to day activities of at New Mittal Motor Store. Dear Sir,

I the undersigned, Mr. Sanjeev Kukreja, authorized signatory of M/s Varuna Integrated Logistics Pvt. Ltd., having its office at Plot no. 572, Sector 37, Pace City-II, Gurugram 122001 (Haryana), respectfully submits as follows:

1. That the Accused No. 1 is a former employee of M/s Varuna Integrated Logistics Pvt. Ltd. ("Company") and has been associated with the company for approximately 16 years, since January 2008.

During his tenure with the company, Accused no, 1 held the position of Team Leader Purchase' and operated from the Company's fleet office located at Dharuhera, Haryana. That the Accused no. 1 once confronted with the forgery and fraudulent activities as detailed below, resigned from his the company on 06.01.2024. During his employment with the company, he was responsible for procuring essential spare parts for Company's vehicles.

2. That the Accused no. 2, New Mittal Motor Store, is a proprietorship concern and Mr. Kishan Chand is its proprietor. Accused no. 3 and Accused no. 4 are actively engaged in the operations of New Mittal Motor Store, and are responsible for managing its day-to-day activities, including overseeing the billing processes for the business activities conducted through Accused no. 2.

3. Accused No. 1's as part of his responsibilities, used to procure spare parts for the Company's vehicles and its fleet from various vendors across the country. His job responsibilities also involved receiving of invoices from various suppliers and presenting them to the company for payment. Notably, Accused No. 1, in collaboration with Accused No. 3 and 4, had issued various purchase orders under the names of several vendors, including invoices in the name *of Accused no. 2, Star Enterprises, N.K. Enterprise, Bhawani Traders, Shiv Enterprises. Shree Radhey Traders. Accused No.1, conducted various transactions with Accused No.2, through Accused No.3 and Accused No.4 from 29.05.2021 to 28.11.2023 and raised bills totalling to an amount Rs. 1,16,09,421.85/- (One Crore Sixteen Lacs Nine Thousand Four Hundred Twenty One and Eighty Five Paisa Only), having a GST amount of Rs. 24,79,014.70/- (Twenty Four Lacs Seventy Nine Thousand Fourteen and Seventy Paisa Only),*

4. During an internal audit, it was discovered that Accused No. 1, in connivance with Accused No. 2, 3 and 4 had been misappropriating company's funds leading to a serious breach of trust and financial misconduct. Accused no. 1 in collaboration with Accused no. 2, 3 and 4, manipulated the procurement process wherein procurement was conducted with fraudulent parties and on a further detailed enquiry Star Enterprises, N.K. Enterprise, Bhawani Traders, Shiv Enterprises, Shree Radhey Traders were found to be non-existent companies/parties, which further revealed that Accused No.1 inconnivance with Accused No. 2, 3 and 4 were misappropriating company funds. This fraudulent scheme allowed them to unlawfully pocket substantial amounts of Rs. 24,79,014.70/- (Twenty Four Lacs Seventy Nine Thousand Fourteen and Seventy Paisa Only).

5. Upon the disclosure of the fraudulent activities, the Company confronted Accused no. 1, when he came to work on 05.01.2024. Upon confrontation, he acknowledged his involvement in the misconduct and issued a handwritten commitment on 05.01.2024 and consented to return the misappropriated funds up to Rs. 20,00,000/-(Indian Rupees Twenty Lacs Only). However, when the company requested the payment of the money fraudulently acquired by him, Accused No. 1 not only reneged on the initial assurance but also refused to make the payment to the Company.

6. To the shock of the Company, Accused no. 1 resigned on 06.01.2024, and has been absconding since then, without completing reliving formalities and returning the amount misappropriated with him. Accused No.l's behaviour further shows *his ill- intent to misappropriate and illegally usurp money from the Company.*

7. That the repercussions on the Company, including substantial financial losses, damage to our reputation, and the ensuing mental distress, underscore the imperative for immediate legal intervention.

In light of the severity of the situation, I earnestly request a thorough and expeditious investigation into the matter. Additionally, I request the authorities to promply initiate legal proceedings against the Accused persons in strict accordance with the law.Sd/-09.01.2024 Sanjeev Kukreja.'

3. **<u>Contentions</u>**

<u>On behalf of the petitioner</u>

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. He submits that the petitioner was not named in the present F.I.R as his name was added on the basis of supplementary statement of co-accused, which does not carry any evidentiary value in the eyes of law. He further submits that there is no specific attribution against the petitioner in the entire F.I.R. He further point out that there is inordinate delay in lodging the FIR as the incident took place during the period from 29.05.2021 to 28.11.2023 and the FIR has been registered on 12.01.2024. He has further argued that the antecedents of the petitioner are clean. He submits that similarly co-accused namely Vinod Kumar Jain who has been named in the FIR has already been granted concession of anticipatory bail by this Court vide orders dated 03.07.2024 and 03.12.2024 passed in CRM-M-31039-2024 (Annexure -P-3 and P-4). Moreso, the investigation in this case is complete as challan stands presented on 26.03.2025 charges stands framed on 29.04.2025 out of 14 prosecution witnesses, none has been examined so far which is sufficient to infer that the conclusion of trial is likely to take considerable time, therefore, prays for grant of regular bail to the petitioner.

On behalf of the State

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 opposes the prayer for grant of regular bail stating that the petitioner has actively participated in the commission of the offence along with co-accused and an amount of Rs. 40 lakhs has been transferred in the account of the petitioner.

4. **Analysis**

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 4 months and 14 day, there is inordinate delay in registration of the FIR as alleged incident took place during the period from 29.05.2021 to 28.11.2023 and the FIR has been registered on 12.01.2024; similarly situated co-accused has already been granted concession of 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, whereas in the instant case, challan stands presented on 26.03.2025 charges stands framed on 29.04.2025 out of 14 prosecution witnesses, none has been examined so far which is sufficient 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. **<u>Relief</u>**

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

22.05.2025
anuradha

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*