

2025:PHHC:070284



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

**CRM-M-27472-2025
DECIDED ON: 23.05.2025**

ANIL SHARMA**.....PETITIONER****VERSUS****STATE OF HARYANA****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. B.S. Mamli, Advocate
for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG Haryana

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

This petition has been filed under Section 483 BNSS (The Bharatiya Nagarik Suraksha Sanhita 2023) for grant of regular bail to the petitioner in FIR no. 95 (Annexure P-1) dated 22.01.2022 under Sections 420, 467, 468, 471, 477, 120-B of Indian Penal Code 1860, registered at Police Station Barwala, District Hisar.

2. Brief facts of the case reads as under:-

“The case of the prosecution is that Transport Commissioner, Haryana, Chandigarh sent a complaint to police revealing therein that they detected a fraud regarding re- registration of the vehicle with manipulation of chasis number at the time of entry of data in VAHAN portal in the office of SDM-cum- Registering Authority, Jagadhari. Accordingly, FIR no.. 14 dated 21.1.2021 at P.S.Sector-17 HUDA and FIR No.28 dated 01.02.2021 P.S. Bilaspur District Yamuna Nagar were got registered and the matter was under investigation. The Transport Department Haryana initiated exercise to identify cases of suspected fraudulent re-registration of vehicles

with a similar modus operandi in other RTA/RA/RAS Offices and prepared a list. During this exercise, similar fraud was surfaced in the office of RLA, Hisar, Hansi, Barwala, Narnaund and RTA Hisar. The matter was still under investigation and with this information, he prayed to take legal action against the culprits. Alongwith the application, they appended the list of vehicles regarding which the fraud at the time of re-registration was committed. 3. Acting on this application, FIR under Sections 420 was registered. Inspector Sukhjeet Singh, SHO P.S.Barwala, SI Ramesh Kumar P.S.Barwala and Inspector Raj Kumar P.S.Barwala conducted the investigation. During investigation, Form No.24 of different Registration Authorities was sought. However, record could not be collected vide letter No.5108-07 dated 17.1.2023. The investigation of the case was transferred to economic cell. Inspector Lalit Kumar began the investigation. During investigation, it was discovered that NOCs of the vehicles mentioned in the list were got issued from Palwal, Siwani, Guhla, Jagadhari, Hisar, Jind, Chennai, Gurgaon, Tohana, Hansi, Bahadurgarh, Fatehabad, Sirsa, Narwana, Dadri, Bhiwani, Rewari, Chandigarh, Sonapat, Kharkoda, Beri, Rohtak, Gohana, Uchana and Bilaspur. Accordingly, notices were served upon the Registration Authorities. In pursuant to the notice, Form No.24 were received from Sirsa, Narwana, Hisar, Tohana, Gurgaon, Jind, Bahadurgarh, Badli, Narnaul, Beri, Faridabad, Palwal, Sivani, Hansi, Guhla, Rewari. However, complete record was not collected. Thereafter, notices were again issued to the concerned authorities as the record was not collected. Pawan Kumar, Motor Registration Cierk of the office of SDM-Cum-Registratien Authority Barvala was joined in the investigation. He presented a copy of the order of the Transport Commissioner Haryana Chandigarh regarding destroying of the three years old record. During this investigation, accused Dilbag was arrested who used to work as car dealer at Kaithal. During investigation, it was discovered that he purchased vehicle No.MH14FC-3124 from Maharashtra and got the same registered with Guhla Authority in the name of Balkar son of Jeet Singh after

appending fake documents. Thereafter, he got the NOC issued from Guhla and further sold the same to Sunil Sharma. Similarly another vehicle bearing No.MH12B/3108 was got registered for personal use from taxi number to private number at Guhla Authority in the name of Ram Niwas and thereafter, he got issued the NOC and sold the vehicle to Rajpa!. In for No.24 of vehicle HR09F/7073, mobile No.90538-60001 and of vehicle No. HR09F/4201, Mobile No. 98132-26909 were found mentioned. The CAFs of mobile numbers were obtained. The mobile No. 90538-60001 was found to be of Anil Sharma MRC and Mobile No. 98132-26909 was found to be of Dilbag Singh. Both the accused in collusion with each other re-registered the vehicle by putting an extra asterisk in the chasis number of the vehicle. After completion of investigation, challan was filed in the Court.”

3. Contentions:

On behalf of the petitioner

Learned counsel for the petitioner has argued that the offences involved in the present case is triable by the Magistrate. He submits that the petitioner was not named in the FIR and he was nominated on the basis of disclosure statement of co-accused Dilbagh Singh, who has been granted the concession of regular bail vide order dated 13.12.2024 (Annexure P-3) passed in CRM-M-61793-2024. He further submits that the petitioner is in custody since 10.07.2025, wherein investigation is complete, challan stands presented and nothing is to be recovered from the petitioner.

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 10 months and 14 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the petitioner is a habitual offender, as he is involved in other cases.

4. **Analysis**

Considering the fact the petitioner has already suffered incarceration of 10 months and 14 days; co-accused Dilbag on whose disclosure statement, the petitioner was nominated, has already been granted the concession of regular bail by this Court vide order dated 13.12.2024 (Annexure P-3) passed in CRM-M-61793-2024 added with the fact that investigation is complete, challan stands presented on 20.08.2024, charges have been framed on 07.11.2024 and out of total 22 prosecution witnesses, 15 have been examined so far, which is suffice for this Court to infer that conclusion of trial shall take considerable time, no useful purpose would be served by keeping the petitioner behind bars for uncertain period, wherein “*bail is a rule and jail is an exception*” and it would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India, as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***. 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.”*

As far as the contention of learned State counsel with regard to the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “***Baljinder Singh alias Rock vs. State of Punjab***” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail.

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.

(SANDEEP MOUDGIL)
JUDGE

23.05.2025

Meenu

Whether speaking/reasoned Yes/No

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