

2025.PHHC.079185



212

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

**CRM-M-30757-2025
DECIDED ON: 04.07.2025**

PREET SURINDER SINGH**.....PETITIONER****VERSUS****STATE OF PUNJAB****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Ramandeep, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG Punjab.

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

The jurisdiction of this Court has been invoked for the 5th time under Section 483 BNSS, 2023 seeking regular bail to the petitioner in case FIR No.114 dated 07.08.2023 under Section 181, 419, 420, 466, 468, 471, 474, 120-B IPC (offence U/s 467 IPC added lateron) P.S. Division No.4 Patiala (Annexure P-1) in the interest of justice and fair play.

2. Facts

Facts as narrated in the FIR reads as under:-

“At this time an application bearing number 244-A, dated 18.07.2023 is received from Sh. Rahul Dhingra, reader to the Hon'ble Court of Sh. Palwinder Singh Civil Judge (JD)-cum-JMIC, Patiaal for Registration of case U/S 181, 419, 420, 466, 468, 471, 474 and 120-B of the Indian Penal Code against-1.) PreetSurinder Singh son of Sh.

Tej Mohan Singh, R/o H.No.83, New Mehar Singh Colony, Patiala. (accused) 78558-06686. 2.) Jaspal Singh son of Sh. Sajan Singh, R/o Village Samla, Tehsil Nabha, District Patiala. (surety) 3.) ManavroopKaushal s/o RupjitKaushal, R/o# 1-D, Hira Nagar, near 22 number Phatak, Patiala. (witness) 4.) Rakesh son of Meena Ram, R/o H.No. 95, St. No.2, Guru Nanak Nagar, Patiala. (witness) 5.) Any other responsible/involve. Memo: Whereas in complaint no. 1346/2019 filed under Section 138 of the Negotiable Instruments Act against accused PreetSurinder Singh titled as "Jagjit Singh Vs. PreetSurinder Singh", accused PreetSurinder Singh was summoned vide order dated 01.06.2019. On 18.04.2023 accused surrendered before the Court who was admitted to bail with the sum of Rs. 50,000. Mr.Jaspal Singh son of Sajan Singh R/o village Samla Tehsil Nabha District Ratiala Stood as surety of the accused whereas ManavroopKaushal s/o RupjitKaushal R/o PD, Hira Nagar, near 22 number Phatak, Labe Patiala and Rakesh son of Meena Ram, R/o H.No. 95, St. No.2, Guru Nanak Nagar, Patiala. Where stood as witness. In support of the surety bonds, surety Jaspalsingh filed his duly sworn affidavit alongwith report from the office of concerned TehsildarNabha dated 18.04.2023, copy of Jamabandi for the year 2019-2020 of his alleged landsituated at village Samla, Hadbast no. 158, Tehsil Nabha, District Patiala. The aforesaid persons also produced the photocopies of their Aaddhar cards and copy of official identify card of witness ManavroopKaushal. However, as per report no. 2762/D.K. dated 31.05.2023 of the TehsildarNabha, it has been reported that there is no land in the name of surety Mr.Jaspal Singh son of Sajan Singh, R/o Village Samla, Tehsil Nabha, District Patiala as shown in aforesaid Jamabandi of the year 2019-2020 whereas the mutation of land has already been sanctioned in favour of one Asmanjeet Singh son of Jaspal Singh vide orderdated 03.01.2021. In this way, accused PreetSurinder Singh with criminal conspiracy of alleged surety Jaspal Singh, alleged witnesses ManavroopKaushal and Rakesh furnished the fake surety with forged documents and committed offence U/s 181, 419, 420, 466, 468, 471, 474 and 120-B of the Indian Penal Code and therefore, a direction is hereby issued to register a case against them under intimation to this Court and conduct investigation. Further Sh. Rahul Dhingra Reader of this Court is authorized to make complaint as required U/s 195 (1) (A) (i) of the Code of Criminal procedure against the accused persons. Copies of complaint no. 1346/2019 as Annexure-A1, forged documents i.e. Surety bonds as Annexure-A2, false affidavit as Annexure-A3, forged report of Patwari dated 18.04.2023 as Annexure-A4, copy of Jamabandi for the year 2019-2020 as Annexure-A5, Aaddhar Card of surety Jaspal Singh as Annexure -A6, Identity card of witness ManavroopKaushal as Annexure-A7, Aadhar card of witness*

Manavroop Kaushal as Annexure-A8, Aadhar card of witness Rakesh as Annexure-A9 and report of office of Tehsildar Nabha no. 2762/D.K. dated 31.5.2023 as Annexure-A10 are attached herewith. SD/- Palwinder Singh, Civil Judge (JD)-com-JMIC, Patiala. (UID No. PB0413.)”

3. Contentions:

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It is argued that the petitioner was granted bail by the competent court in a complaint case under Section 138 of the Negotiable Instruments Act, 1881. In compliance with the bail conditions, one Jaspal Singh stood as surety for the petitioner and produced a duly sworn affidavit along with supporting documents, including the report of the Tehsildar, Nabha dated 18.04.2023, a copy of the *Jamabandi* of Village Samla for the year 2019-2020, and a copy of his Aadhaar Card.

It is further contended that the petitioner had no knowledge that the land documents submitted by the surety were not genuine. The petitioner acted in good faith, believing the documents to be valid and was not a party to any fraudulent act or misrepresentation. Therefore, the petitioner should not be held liable for any alleged irregularity or defect in the surety documents furnished by a third party, over which he had no control or intent to deceive the Court.

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 11 months and 29 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the surety submitted by one Jaspal Singh for the petitioner is found to be fake.

4. **Analysis**

Considering the fact that admittedly it was Jaspal Singh, who produced the fake *Jamabandi*, therefore, petitioner cannot be held responsible for any defect or irregularity in the surety documents furnished by a third party, particularly when there is no evidence to suggest any dishonest intention or active participation by the petitioner. Moreover, the custody suffered by the petitioner is 11 months and 29 days added with the fact that investigation is complete, challan stands presented on 24.09.2024, charges are yet to be framed and total 8 prosecution witnesses are to be examined, which is sufficient for this Court to infer that conclusion of trial shall take considerable time, therefore, this Court is of the view that 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 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 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

04.07.2025

Meenu

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No