

2025:PHHC:079318

222 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31369-2025

DATE OF DECISION: 04.07.2025

JAGTAR SINGH @ DUMM

...PETITIONER

VERSUS

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Ms. Harita Panthey, Advocate
for the petitioner.

Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)1. Prayer

The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for the grant of regular bail to the petitioner in FIR No. 178, dated 23.08.2024 under Sections 308(2), 351(2), 115(2), 3(5) BNS, 2023 and subsequently added Sections 317(2), 238(c), 127(2) of BNS, 2023 and Section 67-A IT Act, 2000, registered at Police Station Kotwali, Patiala.

2. Facts

The case of the prosecution, as narrated in the FIR, reads as under:-

“This time a statement of Anand Diyal son of Sh. Naresh Kumar resident of H. No. 84, Navi Abadi, Awakha Deena Nagar, Police Station Deena Nagar, District Gurdaspur aged about 22 years, Mob: 79863-16690 written by ASI Sukhwinder Singh No. 3159 Police Station Kotwali Patiala received in Police Station by the hand of HC

Kuldeep Singh No. 1390 for registration of case against unknown boys, the contents of which are that : I would like to state that I am resident of above noted address and am doing study from Government Ayurvedic College, Patiala and am living in the college Hostel. Yesterday on 22.08.2024 I came at Patiala city for shopping and after shopping when I was going back to the college hostel and I reached near Yellow road Narayan Atta Chakki then at around 05.30 PM a white colour car came from back side, in which two youngmen having short hair were sitting and out of them, one youngman was sitting on the backseat of car. They called me to them under the pretext to ask the way and when I reached near their car then they told me that we are also going towards your hostel then I also sat with them in the car and when they crossed my hostel then I told them that here is my hostel, you drop me here then they told me that you sit here silently and iney closed the window glasses of the car and they kept on taking me here and there in the car and they kept on beating me, they were having some Sharp edge weapons. Thereafter they made my vulgar video then I asked them that why you are doing it with me then they told me that we will make your video viral and they, while pressurizing me, got transferred the amount of Rs. 5000/- through Paytm from the mobile No. 96144-99786 of my father to the Paytm of their mobile No. 98778-87371 in the name of Ram Naresh and thereafter the they dropped me at YPS Chowk Patiala and threatened me that you will not see behind, I was nervous and came back to my hostel. I can identify the said unknown boys on appearing before me, legal action be taken against the said boys. Today I along with my father Naresh Kumar was coming to inform you in the Police Station then you along with police party met us at bus stand Sanauri, Patiala, I have got recorded my statement to you, heard, same is correct. Sd/-Anand Dayal, supported by Sd/- Naresh Kumar No 96144-99786, attested by Sd/- ASI Sukhwinder Singh No. 3159, Police Station Kotwali Patiala dated 23.08.2024. Police proceedings: Today myself ASI along with along with ASI Balwinder Singh No. 1645 and HC Kuldeep Singh No. 1390 carrying laptop and printer on private vehicle were present at bus stand Sanauri, Patiala in connection with patrolling and search of bad elements, then Anand Dyal son of Sh. Naresh Kumar resident of H. No. 84, Navi Abadi, Awakha

Deena Nagar, Police Station Deena Nagar, District Gurdaspur along with his father Naresh Kumar met us and has got recorded his above said statement to myself ASI. After recording statement, same is read over to him, who, after hearing his statement and admitting the same to be correct, appended his signature in English on the bottom of his statement and his father Naresh Kumar has appended his signature in English and myself ASI have attested the same. As per the content of statement, offence under section 308(2), 351(2), 115(2), 3(5) of BNS is made out, therefore the statement is being sent to the Police Station by the hand of HC Kuldeep Singh /1390 for registration of case against the said unknown boys along with car. After register case, the number of the same be intimated. Incharge control Room and officers be intimated. Special reports be issued. Myself ASI along with associate officials and complainant are going to the place of incident. Today within the area of bus stand Sanauri, Patiala at 05.20 PM. Sd/- ASI Sukhwinder Singh No. 3159, Police Station Kotwali, Patiala.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner has submitted that the petitioner has been nominated in the present case, on the basis of disclosure statement suffered by Arshdeep Singh, who alleged that the petitioner along-with Chiriya had taken the money from one Ram Naresh on whose mobile number Rs.5000/- was sent by the father of the complainant, who has never been roped in the present case as an accused. There is nothing on record to establish the involvement of the petitioner in the alleged occurrence.

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 has suffered incarceration of 10 months and 2 days, as of now.

He seeks dismissal of the present petition stating that there is specific allegation against the petitioner that he along-with other co-accused were blackmailing the general public by making threats to viral their obscene videos videographed by them and on that account, they use to demand money.

4. Analysis

Having considered the custody period already undergone by the petitioner, i.e. 10 months and 2 days, along with his clean antecedents, and taking into account that there is no evidence on record linking the money allegedly recovered from the petitioner to the amount given by the complainant's father through UPI to one Ram Naresh, this Court finds that continuing the detention of the petitioner would not serve any useful purpose. Moreover, the trial is likely to be prolonged, as out of the total 14 prosecution witnesses, only three have been examined so far since the charges were framed on 30.04.2025. Therefore, the Court is of the opinion that the petitioner should not be kept behind bars for an indefinite period.

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.”

5. Relief

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

04.07.2025

Meenu

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