

**CRR-1642-2025****-1-**

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

323**CRR-1642-2025****Date of decision: 7th August, 2025**

Sunil Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sandeep Gahlawat, Advocate for the petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

Mr. Sunny Tyagi, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

The instant revision petition has been filed by petitioner challenging the order dated 13.06.2025 passed by the Court of Additional Chief Judicial Magistrate, Jind in case arising out of FIR No. 398 dated 19.07.2022 registered under Sections 385, 388, 420, 120-B and 180 of IPC at Police Station Sadar Jind, District Jind, whereby an application filed by the petitioner under Section 480(6) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of bail, had been dismissed.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the petitioner along with the co-accused has been booked for commission of aforementioned offences and is facing trial on the allegations that he had hatched a conspiracy with the co-accused to extort money from the complainant/his family members for withdrawal of the



prosecution launched against Satish Kumar, brother of the complainant by registration of FIR No. 548 dated 08.09.2021 at Police Station Sonipat. The petitioner was arrested in this case on 05.11.2022 and is in custody since then. During the pendency of the trial, he filed an application for grant of bail under Section 480(6) of BNSS. This application has been dismissed by the learned trial Magistrate by exercising his discretion. Feeling aggrieved, the instant revision petition has been filed.

3. It is argued by learned counsel for the petitioner that the impugned order is not sustainable in the eyes of law as while passing the same, the learned trial Magistrate did not apply his judicious mind. The fact that there were false and vague allegations against the petitioner, had not been taken into consideration. The learned Magistrate also ignored the fact that the charges in this case had been framed on 18.01.2025 and the trial did not conclude within the period of sixty days as stipulated under Section 480 of BNSS and as such, it was incumbent upon the Court to release the petitioner on bail. It is, therefore, argued that the impugned order is liable to be set aside, the petition deserves to be accepted and that he deserves to be extended benefit of bail under the provisions of Section 480(6) of BNSS.

4. The respondent No.1 State has filed reply. Learned State counsel assisted by learned counsel for the complainant has argued that there is no illegality or infirmity in the impugned order and the same is well reasoned deserving no interference. It is argued that no absolute right had been conferred upon the petitioner under the provisions of Section 480(6) of BNSS to be granted benefit of bail on account of non-conclusion of trial within a period of sixty days. Sufficient reasons have been assigned by



learned trial Court in rejecting the prayer as made by the petitioner. It is, therefore, argued that the petition being devoid of any merit is liable to be dismissed.

5. This Court has heard learned counsel for the parties at considerable length and has gone through the record carefully.

6. As per the provisions of Section 480(6) of BNSS which are *pari materia* with Section 437(6) of Cr.P.C. if in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the date fixed for taking evidence in the case such persons shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for the reasons to be recorded in writing, the Magistrate otherwise directs. On a bare reading of this provision, it is revealed that though a right has been provided in favour of an accused to secure bail but at the same time, a cheque on the said right has been put by conferring jurisdiction upon the Magistrate to reject an application filed by the accused for his release under the aforementioned provision for the reasons to be recorded in writing.

7. The first question that needs consideration by this Court is as to whether Section 437(6) of the Code gives an absolute right to an accused to secure bail if the condition stipulated therein stands fulfilled and its provisions are mandatory? This question finds answer from the observations made in ***Mukeshkumar Ravishankar Dave vs. State of Gujarat : 2011(6) R.C.R. (Criminal) 2650*** and ***Riza Abdul Razak Zunzunia vs. State of Gujarat : 2009 Cri.L.J. 4766***, wherein it was held by the High Court of Gujarat that the provision of Section 437(6) of the Code is not mandatory.



Similar observations were made by the High Court of Chhattisgarh in ***Gulab Singh Banjare & Ors. vs. State of Chhattisgarh 2011(6) R.C.R. (Criminal) 966*** and ***Atul Bagga vs. State of Chhattisgarh 2010 Cri.L.J. 508***. Further, in ***CRM-M-29702-2018***, titled as ***Vinod Kumar vs. State of Haryana***, decided on 19.12.2018, it was observed by this Court that the use of word “shall” in sub-section 6 of Section 437 of the Code is not conclusive. In view of this provision, the Magistrate has been asked to give reasons to be recorded in writing for not releasing an accused on bail if the trial is not concluded within a period of 60 days from the first date fixed for evidence in the case, the provisions of sub-section 6 of Section 437 of the Code cannot be held to be mandatory. Further, a Division Bench of Delhi High Court in ***Robert Lendi vs. The Collector of Customs & Anr. 1987 Cri.L.J. 55*** and the High Court of Jharkhand in ***Didar Singh vs. State Jharkhand 2006 Cri.L.J. 1594***, while considering the question as to what factors should weigh with the Magistrate while refusing grant of bail under Section 437 of the Code, had observed that apart from gravity of offence and the quantum of punishment, the other factors which may weigh with the Magistrate while refusing bail are the overall impact of the offence and the release of the person accused of such offence on the society, the possibility of tampering of evidence by the accused, the possibility of the accused absconding if released on bail, and the delay in conclusion of the trial within a period of 60 days if attributable to the accused.

8. In view of the above discussed position of law, it is explicit that on the one hand, the provision of Section 437(6) of the Code enables the trial Magistrate to grant bail if the requirement of the conditions mentioned



therein stands fulfilled, whereas on the other hand, it vests a discretion to decline the bail for the reasons to be recorded otherwise. However, this provision does not confer any indefeasible right as is provided under Section 167(2) of the Code. While deciding an application under Section 437(6) of the Code, the Court is required to keep in mind that the object behind such provision is to speed up the trial particularly when the accused is in detention. However, at the same time, the gravity of the offence, the quantum of punishment, the manner in which the accused is involved in the offence, whether the default is attributable to the accused, the likelihood of his jumping the bail or any other such circumstance which is considered to be expedient by the Magistrate to not to exercise the discretionary powers under Section 437(6) of the Code, is also to be kept in mind.

9. In the instant case, undoubtedly charge was framed against the petitioner as on 18.01.2025 and trial has not been concluded so far. While passing the impugned order, the learned Magistrate had observed that the petitioner was facing trial for commission of offences which were serious in nature. It was observed that there was no deliberate delay on the part of the prosecution and every endeavour was made to conclude the evidence of the prosecution witnesses at the earliest. The trial Court was in constant process to issue summons/warrants against the witnesses while declining the prayer made by the petitioner, detailed reasons have been given by the learned trial Court for denying concession of bail on the grounds as enumerated under Section 480(6) of BNSS. The allegations against the petitioner are serious in nature. Keeping in view the above discussed facts and circumstances, this Court is of the considered opinion that proper reasons had been given by



learned trial Court for not allowing the application. This Court does not find any illegality or infirmity in the impugned order. As a consequence, the present petition is dismissed being devoid of any merits.

10. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

7th August, 2025
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |