



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

227

CRM-M-52675-2024

DATE OF DECISION: 14.01.2025

AMANDEEP KAMBOJ @ AMAN

...PETITIONER

VERSUS

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Nikhil Ghai, Advocate
for the petitioner.

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

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

This petition has been filed under Section 483 of BNSS, 2023 for grant of Regular bail to the petitioner in FIR No. 61, dated 24.05.2024, under Sections 406 and 420 IPC, registered at Police Station Vairoke, District Fazilka.

2. Facts

The FIR in this matter was filed by the complainant, Gurwinder Singh, son of Baldev Singh, alleging that in the first week of May 2018, Jugraj Singh visited the complainant's shop and informed him that he was securing employment for his son, Sumedh Singh, in the Punjab Police as a Sub Inspector through Amandeep Kamboj, also known as Aman Skoda, who had connections with senior officers and was facilitating job placements in exchange for money.

The complainant further claims that he inquired about securing a job



for his close acquaintance, Raj Singh's brother, in the Punjab Civil Services (PCS), to which Jugraj Singh, in the complainant's presence, made a hands-free phone call to Amandeep Kamboj. During the call, Kamboj assured that the job would be arranged for a total sum of Rs. 80 lakhs, with Rs. 30,000 to be paid as an advance and the remaining Rs. 50 lakhs to be paid after the PCS results were cleared. According to the complainant's statement, following this, and at Kamboj's request, he, accompanied by Jugraj Singh, visited the residence of the accused, Satbir, in Village Rangeela, where they handed over Rs. 30 lakhs. However, when the PCS results were published, the complainant's candidate was not included in the list. The complainant and his associates subsequently approached the accused to demand the return of their money, but the accused not only failed to secure the promised job but also refused to refund the amount. Moreover, the accused allegedly began threatening the complainant with false legal action.

3. Contentions

On behalf of the petitioner

It has been contended by learned counsel for the petitioner that the present FIR has been registered based on the allegations that Jugraj Singh received Rs. 30 lakhs on behalf of the petitioner, Amandeep Singh, with the assurance that the son of the complainant would be provided a job in the Punjab Police. However, it is later stated that this amount was given to the co-accused, Satbeer, who has been granted the concession of anticipatory bail by the Apex Court vide order dated 10.09.2024 passed in SLP (Crl.) No. 40959-2024. According to the allegations in the FIR, the sum of Rs. 30 lakhs was paid to Jugraj Singh in May 2018, and it is only after a delay of six



years that the present complaint has been filed and the FIR registered.

It is important to note that Jugraj Singh has not been named as an accused in the current case, despite the claim that he received the money from the complainant. Furthermore, Jugraj Singh himself had registered FIR No. 80 on May 6, 2024, at the Sadar Fazilka Police Station. In that FIR, he alleges that the petitioner, Satbeer, and Sarv Satya Chauhan, the ADGP of Punjab Police, promised to secure his son's recruitment as a Sub-Inspector in the Punjab Police in exchange for Rs. 70 lakhs. The complaint further states that Rs. 25 lakhs was paid to a police officer in March 2018, with the remaining Rs. 45 lakhs to be paid later; however, no such appointment was made for his son.

It is submitted on behalf of the petitioner that the petitioner is being implicated in one after the another FIRs as many as more than 40 FIRs, wherein, he has been granted either regular bail or anticipatory bail.

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. According to which, the petitioner has suffered incarceration for a period of 6 months and 6 days, as of now. He prays for dismissal of the present petition stating that the petitioner is involved in as many as 48 other cases of similar nature, meaning thereby, he is a habitual offender.

4. Analysis



Given the circumstances outlined above, it is clear that the petitioner's co-accused, Satbeer, to whom the alleged amount is said to have been transferred, has been granted anticipatory bail by the Supreme Court in its order dated 10.09.2024 (Annexure P-20) in SLP (Crl.) No. 40959-2024. Upon reviewing the case file, it is apparent that by order dated 17.10.2014 (Annexure P-14) in CRM-M-35768-2014, an interim direction was issued, stipulating that in the event of the petitioner's arrest in any case registered before 17.10.2014, he would be given a seven-day notice prior.

Furthermore, the petitioner has filed an application for preponement in the petition bearing CWP-8332-2024 before this Court, on the grounds that the respondents have once again registered multiple FIRs based on similar allegations, with the intent to harass the petitioner. While the petitioner does not oppose the investigation or the allegations themselves, his grievance lies in the registration of multiple FIRs across the entire State of Punjab. The application was subsequently allowed by the Court through an order dated 04.07.2024 (Annexure P-18), wherein the respondent-State was granted time to file a reply.

In light of the aforementioned facts and circumstances, it is apparent that the petitioner is being subjected to the registration of multiple FIRs, solely for the purpose of harassment.

The petitioner is behind the bars for the last 6 months and 6 days, as is evident from the custody certificate. The investigation the present case is completed, as challan stands presented on 02.09.2024 and charges have also been framed on 17.09.2024, out of total 13



prosecution witnesses non has been examined so far, which is sufficient for this Court 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 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 “**Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna**”, (1980) 1 SCC 98. Besides this, reference can be drawn upon that pre-conviction period of the under-trials should be as short as possible keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

As far as the pendency of other case is concerned, as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt

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 land the petitioner in a situation of denial of the concession of bail.

5. Decision:

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

14.01.2025
sham

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