

S. No.225

2025:PHHC:133620



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

**CRM-M-52991 of 2025
Date of Decision:24.09.2025**

Suveb

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. Sachin Kaushik, Advocate for the petitioner.

Ms. Vasundhara Dalal Anand, Sr. DAG, Haryana.

Yashvir Singh Rathor, J. (Oral)

1. This is first petition filed under Section 483 BNSS for grant of regular bail in case FIR No.150 dated 27.02.2025 registered under Sections 303, 318(4) and 317(2) of BNS (added later on) at Police Station Kundli, District Sonipat.

2. I have heard learned counsel for the parties and perused the material placed on file.

3. The present case was registered on the basis of complaint given to the police by Satender with the allegations that on 14.01.2025, his phone Make Samsung got lost which was having two sim cards and a few days later, when he checked his bank account, he found that a sum of Rs.1,03,000/- had been



fraudulently transferred from his account and the transfer of the amount had been made from his lost mobile phone to mobile No.8265849341 via UPI in the account of one Suveb Khan. Thereafter, he reported the incident to Cyber Crime and sought action against the miscreants. Accused was arrested and after completion of investigation, final report has been presented in the Court.

4. Learned counsel for the petitioner contended that the petitioner was arrested on 03.03.2025. Final report was presented in the Court on 02.05.2025 and charge was framed on 28.05.2025 and the first date fixed for evidence was 11.06.2025. However, trial was not concluded within 60 days from the first date fixed for recording of evidence and as per Section 480(6) of BNSS/437(6) Cr.P.C, the trial should have been concluded within 60 days w.e.f. 11.06.2025 and since accused had not got the trial delayed, he was entitled to be released on bail under the said provision and he has placed on file various orders dated 11.06.2025, 09.07.2025, 21.07.2025, 04.08.2025, 18.08.2025 and 01.09.2025. In support of his contention, learned counsel for the petitioner has relied upon a judgment of Hon'ble Supreme Court in Criminal Appeal No.818/2025 – **Subhelal @ Sushil Sahu Vs. The State of Chhattisgarh**, decided vide order dated 18.02.2025.

5. Learned State Counsel has opposed the bail petition in view of the gravity of the offence.

6. Before proceeding further, relevant provision contained in Section 480(6) of BNS, 2023 is reproduced as under:-

“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 first date



fixed for taking evidence in the case, such person 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 reasons to be recorded in writing, the Magistrate otherwise directs.”

7. A perusal of the afore-said provision makes it clear that if, in any case triable by the Magistrate, the trial of a person, accused of any non-bailable offence is not concluded within a period of 60 days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail. Hon’ble Supreme Court in **Subhelal @ Sushil Sahu’s case (supra)**, has held that provision of Section 437(6) Cr.P.C can certainly be said to have been inserted with an intention to speed up the trial without unnecessarily detaining a person as an undertrial for a prolonged time. It has been further held that this provisions empower a Magistrate to refuse bail by assigning reasons and legislature has incorporated this provision with a view to recognize right of an accused for a speedy trial with a view to protect the individual liberty. At the same time, the legislature has tried to strike a balance by allowing the Magistrate to refuse bail by assigning reasons in a given set of circumstances. Meaning thereby, that where in the opinion of the Magistrate, it is not proper or desirable or in the interest of justice, to release such accused on bail, he may refuse bail by assigning reasons and this provision cannot be considered to be mandatory in nature and cannot be interpreted to grant an absolute and indefeasible right of bail in favour of accused. It has been further held that reasons for rejection of application for bail under Section 437(6) have to be different and little more weighty than the reasons that may be relevant for



rejection of bail at the initial stage and if this meaning is not given, Section 437(6) will be rendered as otiose. It has been further held that it can certainly be said that grounds relevant for considering the application under sub-Section (6) of Section 437 of the Code and the grounds relevant for considering application for regular bail would be different to some extent and lastly Hon'ble Surpeme Court summed as under:-

“13. In our view, following factors would be relevant:

1. Whether the reasons for being unable to conclude trial within sixty days from the first date fixed of taking evidence, are attributable to the accused?
2. Whether there are any chances of the accused tampering with evidence or causing prejudice to the case of the prosecution in any other manner?
3. Whether there are any chances of abscondence of the accused on being bailed out?
4. Whether accused was not in custody during the whole of the said period?

If the answer to any one of the above referred fact situations or similar fact situations is in affirmative then that would work as a fetter on the right that accrues to the accused under first part of sub-section(6) of Section 437 of the Code.

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15. It would also be relevant to take into consideration the punishment prescribed for the offence for which the accused is being tried in comparison to the time that the trial is likely to take, regard being had to the factors like volume of evidence, number of witnesses, workload on the court, availability of prosecutor, number of accused being tried with accused and their availability for trial etc.”

A perusal of all the zimni orders passed by the trial Court shows that accused has remained in custody throughout. No witness was present on 09.07.2025 and 21.07.2025 while one witness was examined on 04.08.2025. Thereafter, no witness was present on 18.08.2025 and 01.09.2025. As such, first date fixed for evidence was 11.06.2025 and only one witness was examined till 01.09.2025. All the orders show that the accused never sought any adjournment and it is the prosecution which has failed to examine the witnesses and conclude the trial within stipulated period of 60 days. It is relevant to mention that the present case pertains to syphoning of a sum of Rs.1,03,000/- only and petitioner is in custody since 03.03.2025 and the offence in question is thus not so grave. Learned trial Court as well as learned Additional Sessions Judge have rejected the bail application moved under Section 437(6) without assigning any cogent reasons. Rather, learned trial Magistrate has observed that his regular bail application has already been rejected by the Court of Sessions and in view of gravity of offence, he does not deserve concession of bail. However, dismissal of bail application on merits could not have been a ground to reject the bail under



Section 480(6) of Cr.P.C. Complainant has already been examined as PW1 and the case against the accused is essentially based on documentary evidence and there was thus no possibility of his tampering with the evidence. There was also no material on file to show that he will abscond in case he is released on bail and in these circumstances, bail could not have been rejected particularly when the offence committed is not of a greater magnitude. Since the trial Court failed to conclude the trial within 60 days from the first date fixed for evidence, the accused ought to have been released on bail.

10. Having regard to the aforesaid factual position, but without commenting anything upon the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bond and surety bond to the satisfaction of learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

(Yashvir Singh Rathor)
Judge

September 24, 2025
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No