



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

231

CRM-M-56216-2024
DATE OF DECISION: 09.01.2025

JAGRAJ SINGH ALIAS JUGRAJ SINGH...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ankit Kharbanda, Advocate for the petitioner(s).

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

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

This petition has been filed under Section 483 of The Bharatiya Nagarik Suraksha Sanhita, 2023 for the grant of regular bail to the petitioner in F.I.R No.0017 dated 19.02.2024 under Section(s) 341, 324, 326 and 34 of Indian Penal Code (wherein Section(s) 326 and 34 of Indian Penal Code added later on and Section(s) 323, 148 and 149 of Indian Penal Code deleted later on) registered at Police Station Sultanwind, District Amritsar.

2. Prosecution story set up in the present case as per the version in the FIR reads as under :-

‘Statement of Saurav Devgan son of Tarsem Devgan resident of House Number J-18/1876, Gali Number 6, Mata Ganga Ji, Kot Mit Singh, Tarn Taran Road, Amritsar age about 18 years Mobile Number 84274-82419, stated that am the resident of the above-said address and study in 10th class. On date 15-02-2024 at time around 7 PM, I along with my father while riding upon the motorcycle were heading towards Bazaar Kot Mit Singh, Gali Number 1, Gali Chakki Wali, Tarn Taran Road Amritsar to



purchase milk, after telling me to get down of the motorcycle 100 meters away from the dairy, my father told me that "let me go further for some work, you purchase the milk" when I walked to purchase the milk, then Sonu son of Shamsher Singh who was carrying Kirch in his hand, Jugraj Singh son of Sarmail Singh who was carrying Datar (Iron) in his hand, Bau son of Fateh Singh, Fateh Singh son of not known and 4/5 unknown persons who were empty handed who after waylaying me, Fateh Singh after getting hold of me exhorted lalkara that get hold of him, lesson should be taught for entering our street, then Sonu son of Shamsher Singh gave the blow of the Kirch which he was carrying in his hand upon my stomach and Jugraj Singh son of Sarmail Singh gave the blow of the Datar (Iron) which he was carrying in his hand upon my head and due to injuries been inflicted I fell on the ground and while me being fallen Bau son of Fateh Singh and 4/5 unknown persons gave kick blows to me. I raised alarm "Maar Ditta" and on hearing the alarm crowd started gathering, then the above-said all the persons fled from the spot along with their respective weapons and at that time my father came back to me who after arranging conveyance got me admitted at Guru Nanak Dev Hospital where I am undergoing treatment. That the MLR issued by the doctor in relation to injuries suffered by me have been produced by you. The bone of contention is that in relation to my work I pass through their street, they all keep grudge with me on my passing through the street. These above-said persons after fighting with me after inflicting injuries to me have done injustice to me. I am the claimant, appropriate legal action may kindly be taken. I have got my statement recorded before you, statement has been read and heard and is correct. Sd/ Saurav Devgan attested Sd/- Savinder Singh ASI Police Station Sultanwind Amritsar dated 19-02-2024.'

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner has argued that the



petitioner has been falsely implicated in the present case due to enmity between the petitioner and the complainant. He submits that offence under Section 326 IPC is prima facie not made out against the petitioner as the injury No.1 attributed to the petitioner has been declared to be simple in nature. He further submits that nothing is to be recovered from the petitioner and he is not involved in any other case, meaning thereby he is not a habitual offender.

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 is behind bars for 4 months and 17 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the allegations levelled against the petitioner are serious in nature as he has taken active part in causing injuries on the person of the complainant but is not in a position to controvert the submissions made by learned counsel for the petitioner.

4. Analysis

Be that as it may, from the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 4 months and 17 days, the injury attributed to the petitioner is declared to be simple in nature, nothing is to be recovered from the petitioner and his antecedents are clean as he is not involved in any other case, and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt, whereas in the



instant case, challan stands presented on 04.10.2024 charges are yet to be framed and out of total 14 prosecution witnesses, none 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 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 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.



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

09.01.2025
anuradha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>