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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-57294-2024

DATE OF DECISION: 11.03.2025

ARJUN

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Salil Dev Singh Bali, Advocate for the petitioner(s).

Mr. B.S.Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)1. Prayer

This petition has been filed under Section 483 of BNSS (Bharatiya Nagarik Suraksha Sanhita) Act, 2023 for grant of regular bail in FIR No. 143, dated 09.06.2024, under Sections 147, 148, 149, 308, 323, 365 and 506 IPC, Police Station Siwani, District Bhiwani, Haryana (Annexure P-1) in which after investigation the Challan stands submitted under Sections 308, 323, 506, 341, 34, 325 IPC (Annexure P-8).

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

‘To the SHO P.S. Siwani. Sir, it is submitted that I Arjun Kumar @ Ankit S/o Sh. Ajay Kumar am resident of Budhshaili. xxxx Yesterday on 08.06.2024 my uncle VedParkash has sent 5 Lakh rupees for feed in the farm. I along with my brother Krishan at about 10 PM in the night after carrying food for



Jaipal went to the Liquor Vend to get Jaipal and over there Jaipal along with Krishan S/o Sher Singh R/o Budhshaili were sitting. When we reached the Liquor Vend then Jaipal was talking on his phone. We asked Jaipal to come along with us and he said that wait for a minute and we will go. Because of this we spent 5-10 minutes over there and at that time at the liquor vend one Balero along with Balero Campor (white colour) came in which Ishwar Singh S/o Syochand, Rajesh and Balram sons of Ishwar Singh, Arjun Singh and Parveen sons of Rajesh, Kamal S/o Rishal Singh, Sher Singh S/o Syoram, Jagdish S/o Sher Singh, Happy S/o Bhagirath, Rishal Singh S/o Syoram and 3-4 other persons having Lathi, Danda and Rods got down from the car and immediately on getting down said that catch hold of them and put them in the car. On this I ran towards the village and my brother Krishan (Fauji) was caught hold by them but after getting himself free he ran towards the fields. On this they got in their cars and went behind my brother Krishan. Krishan S/o Sher Singh sat with them. My brother while running towards filed fell down and all of them by force put my brother Krishan Kumar in the car and took him towards the fields. I followed them and called my uncle Dharamvir and Somvir. All the aforementioned persons took my brother to the fields and over there got him get down from the car and gave him injures with lathi, danda and rod. My brother had Rs.5 Lakhs in cash and he was wearing a G-Shock watch. All the persons together snatched Rs.5 Lakhs and watch from him. Arjun and Krishan tried to run over my brother Krishan from their cars and on this my uncle Dharamvir, Somvir and my grandfather Kheta Singh came and on seeing us all the aforementioned accused ran away with their weapons in their car and while going back they threatened to kill and said that we will pick up your sister. After that we brought our brother to Civil Hospital, Siwani were they followed us. Kamal Singh S/o Rishal brought the car and tried to get me into it inside the hospital and also picked up fight



and on this the staff of the hospital close the door and called the police. All these people were sitting in the parking of the hospital waiting for us to come out. On this we requested police that we should be taken to CMC Hospital Hisar as they could again repeat the incident. Thereafter in police security we were taken to CMC Hospital Hisar and they followed us on the way. Now my brother is going treatment at MH Hospital Cantt. and he is not in a state to give statement. They have given life threatening injuries to my brother and have snatched money and action be taken against them and me and my family be saved. Sd/ Arjun.'

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 and there is no specific attribution of any injury to the petitioner. He submits that as per the doctor opinion, the injury which are on the non-vital part have been declared to be grievous and none of the them are life threatening. He has argued that even if the allegations are taken as gospel truth it would not attract Section 308 IPC and at best it would a case under Section 325 IPC. He has further argued that that the antecedents of the petitioner are clean, meaning thereby he is not a habitual offender, moreso, the co-accused Balraj, Krishan Kumar and Rajesh have already been granted concession of regular bail vide orders dated 25.10.2024 and 7.01.2025 passed in CRM-M-52284-2024 and CRM-M-56995-2024, therefore, prays for grant of regular bail to the petitioner.

**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 8 months and 05 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail. He submits that the injuries may be on non-vital parts but three fractures have been reported on the person of the victim Krishan as per the MLR, moreover, he along with other co-accused tried to run over the injured Krishan from their cars.

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. 8 months and 5 days, similarly situated co-accused has already been granted concession of bail by this Court, antecedents of the petitioner are clean, meaning thereby he is not a habitual offender, and the injuries were inflicted on the non-vital part of the body and the role attributed to the petitioner is that he was holding blunt weapon which is a debatable issue while looking at the nature of injuries wherein it would not come under the ambit of Sections 308 and 323 IPC, 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 08.08.2024, charges stands framed on 06.11.2024 out of 22



prosecution witnesses, only 2 PWs have 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.

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

11.03.2025
anuradha

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No