



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

217

CRM-M-62324-2024
DATE OF DECISION: 02.04.2025

LOVEPREET SINGH @ KANG

...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Veneet Sharma, Advocate for the petitioner(s).

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

SANDEEP MOUDGIL, J (ORAL)1. Prayer

This petition has been filed under Section 483 of The Bhartiya Nagarik Sanhita (BNSS), seeking regular bail in FIR No.188 dated 13.04.2022 under sections 307, 379-B, 379-B(2), 364, 397, 201, 467, 468, 471, 474, 482 of IPC 1860, and Sections 25, 54, 59 of Arms Act, 1959, registered at Police Station Sohana, District SAS Nagar, Mohali.

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

‘Statement of Ravi Ranjan Arshad son of Vajinder Parshad, R/o #21-B, Highland Park Homes, Bubhat Road, Zirakpur, District S.A.S. Nagar, aged about 28 years. It is stated that I am resident of aforesaid address. I am living at this address since July, 2019. I was born at Bohta City, District Patna. I am doing job in IT Sector



at Dyabase Building, Sector 67. I have night duty, today in the morning after my duty, I was going to my flat at Zirakpur, the time would be around 4.00 am, I reached 1 kilometer far away from Airport Chowk, Mohali at Zirakpur side on my i-20 car bearing registered no. CH 01-BX-0932 colour white, then I received phone call from my boss in order to attend a phone call, I parked my car at one side and started to attend a call, and check my laptop. After conversation, I closed my phone and laptop. Then, I saw that 2 persons were standing at front side of right side of my car, they signalled me to down the mirror, then I down the mirror of my right window, they said to me that can you drop us at Banur, I replied to that them I am going to Zirakpur. I will drop you at next lights, they agreed with me, among them one was a Hindu man, who had wheatish complexion, thin body, and worn shirt and jeans, height might be 5'8", and was speaking Punjabi. He sits at front Second person, seat in parallel to who was around 30 years told, he had tied cloth (parna) around his head, fair complexion, had worn check printed cloth (para), fatty body, sits on back seat of the car in the middle. When I started the parallel to me car then person sitting in cocks the pistol after taking it out, and by pointing towards me. Status Report said that get off from the car and sit on the back seat, I refused on asking by him for 3-4 times. Then in the meantime, Hindu youngman hit bullet on me with his pistol with an intention to kill, which hits on my right thigh at right side and passed through left side, and then hits on left thigh and stuck in the left thigh. Then I got perplexed, they dragged me out from the car, and bleeding started from my thighs They sat me on the back seat of the car, person with Parna started to drive the car, and Hindu youngman sat with me on the back seat, then he started the car, and I said to them that I am having heavy pain, you drop me at any hospital. They said to me that we will drop you at hospital in the way. Then they crossed Toll Plaza Banur without obtaining receipt, then near Gian Sagar Hospital, they dropped me before heading towards bridge, and take the car on bridge and went towards Rajpura side. My passport, DL, PAN card, and my mobile phone which my number 9356855868 is operating, took away alongwith



the car. On my repeat nearrequests, handed over my laptop to me. I went to Gian Sagar hospital by walking slowly. They after giving me first aid, referred me to Fortis Hospital, Mohali with my consent. Where I am under treatment. I can identify the aforesaid two unknown persons. Statement is recorded, heard, and it is correct. Action be taken. SD/ Ravi Ranjan, verified SD/- Jaswant Singh.'

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. He submits that the petitioner was not named in the present FIR and he has been in custody since 24.04.2022. He further submits that the complainant, who appeared as PW-1 has not supported the case of the prosecution. He asserts that co-accused of the petitioner namely Jagdeep Singh alias Jagga, Mandeep Singh alias Rinku and Rashpal Singh have already been granted the concession of regular bail by this Court vide orders dated 22.08.2023, 22.08.2023 and 15.11.2023 respectively passed in CRM-M-44185-2022, CRM-M-52855-2022 and CRM-M-11980-2023 which are annexed herewith as Annexure P-3 to P-5. Moreso, the investigation in this case is complete as challan stands presented on 22.07.2022 charges stands framed on 19.10.2022 out of 30 prosecution witnesses, only one PW has been examined so far which is sufficient to infer that the conclusion of trial is likely to take considerable time, 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.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the petitioner is a habitual offender as he is involved in other FIRs also but is not in a position to controvert the submissions made by learned counsel for the petitioner.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 2 years, 10 months and 27 days, similarly situated co-accused have already been granted concession of bail by this Court (Annexures P-3 to P-5), 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 22.07.2022 charges stands framed on 19.10.2022 out of 30 prosecution witnesses, only one PW has been examined so far which is sufficient 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 cases and involvement of the petitioner in other cases is concerned, 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. 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

02.04.2025
anuradha

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