



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64715-2024
DECIDED ON: 09.01.2025

ADITYA SINGH MEHNOT

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Aman Pal, Advocate,
Mr. Ram Niwas and Ms. Digantika, Advocates
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in FIR No.90, dated 04.02.2015 (Annexure P-1), under Sections 406, 420, 467, 468, 471, 489-B and 120-B IPC, registered at Police Station Gurgaon Sadar, District Gurugram, Haryana.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“To Mr. SHO Assistant Police Station Sadar Gurgaon Haryana Subject Fraud in sale of flat Sir, it is requested that I, Sandeep Singh son of Shri Ramdas Dohre Trustee, resident of H. No-1347 2nd Floor Sec-46 Gurgaon, I have a flat B-103 Eleganta Casa Bella Dombivali (E)

Navi Mumbai Thana Maharashtra, the deal of the above flat was done on 6-1-15 at my house with Aditya Singh son of Raghubir Singh Mahnot, resident of Mahnot Bhawan Mahnot Nagar District Neemav, for Rs. 55 lakhs. During the negotiations for the sale of the flat, Aditya told me that I should show the price of the flat as Rs.35 lakhs in the registry, this will reduce the stamp duty amount. At that time, Padam Singh, son of Mandore Singh, resident of Barla, i.e. Barla district, Barwani, Madhya Pradesh also went to my house with him. At that time, my wife Binu Singh was also present at home and all the talks took place with him. I called Aditya and told him that there is a loan of about Rs. 15 lakhs on my flat. He told me that he will transfer about Rs. 12 lakhs to my account and arrange for some money and after paying the bank loan, get the registry done in his name within a month and he will give the remaining Rs. 43 lakhs fifteen days after the registry because he will get the money after getting this registry done to someone. After my refusal for this, he had collected the money from many sources but kept a condition that this money should not be used till the registration is done, therefore he is ready to pay the balance of Rs.43 lakhs. Therefore, he locked the money in a biometric electronic locker in front of me and said that this locker will be locked by his servant Padam Siar Singh with his thumb impression. After that, he brought both the rupees in the marked locker to my house and said that after the registration is done, they will call the locker and give me the money. After keeping that, I reached Mumbai on February 2015 and went to Tart Plaza, Dombili Registrar Office and got the registration done at 30:00 PM. And as per the scheduled program, Aditya was to come to the registry office on 4-2-15 at 7:30 PM, but he expressed his disappointment that the

person whose fingerprint is required will be available on 5-2-15, so I came on 5-2-15. He will hand over that money to me after coming home and for my satisfaction he has given me a bank number 000019 of HDFC but instead of doing so Padam Singh son of Gandoor Singh at the same time when I was on a flight from Delhi to Mumbai told my wife that the boss has said that now the transaction is done and they have to open the locker, then my wife told him that she had to confirm from me had, but when the phone was switched off my wife remembered that the phone must be off as I was on flight and trusting him, she allowed him to open the locker, after opening the locker he asked my wife to give him a cup of tea and as soon as Padam went to the kitchen Padam Singh filled the money in a bag he had brought with him and started running away, then my wife saw from the kitchen and caught him with the money on the spot by making noise, on which my landlord Bhishm Kumar Taneja also came on the spot and started looking for the money, then I had also reached home by then and all of us had taken the packets of money. When opened and checked, there were eight bundles of 500 rupees in the bag, in which one bundle had five bundles and five bundles had one thousand rupee notes pasted on the front and back, out of which four bundles had five bundles in each bundle. And one bundle had three bundles. After filling those bundles of rupees back in the bag, Padam Singh came to the police station and handed over that bag to you. Aditya had pasted one real note in each bundle on the top and bottom of the packet and filled the papers with the print of the design of those notes on the inside edge and legal action should be taken against Aditya and I have been cheated of my money. Mobile no. 09179949111 should be returned to me, it would be a

great favor from you. Who is the son of SD Sandeep Singh. On whom all the talks were based. Shri Ramdas Dohre R/o Hno-50 Mohalla Kayasthan Town and Police Station Phaphund District Auraiya Uttar Pradesh - 08527294010 Today i.e. on the above mentioned case being received in Police Station Haza, the crime under 406/420/120B IPC was found to be true, so the above mentioned case was registered and hard copies of the FIR were prepared, which would be sent to the service of the District Postal Service. The copy of the FIR along with the original applicant, ASI, is present at the spot with me. Si Naresh 3653 along with me.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the present dispute revolves around a contractual obligation and therefore, would at most be a civil dispute and therefore, no criminal liability can be fastened upon him.

On behalf of the State

On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition on the ground that there are serious allegations against the petitioner of duping the complainant out of a substantial amount of Rs.43 lacs in relation to the flat in question.

4. **Analysis**

Be that as it may, considering the custody period i.e. 08 months and 27 days for which the petitioner has suffered incarceration and the present dispute revolves around a contractual obligation and therefore,

would at most be a civil dispute and therefore, no criminal liability can be fastened upon him. Moreover, the challan stands presented to Court on 14.08.2024; charges have been framed on 19.09.2024 and out of total 15 prosecution witnesses none has been examined so far, which is suffice for this Court to infer that the conclusion of the trial will take a long time.

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 basic and 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 discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

In the afore-said terms, the present petition is hereby allowed.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

09.01.2025

Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No