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

101-4

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Subhash

...Petitioner

V/s

State of Haryana

...Respondent

Date of decision: 06.03.2026**Date of Uploading : 09.03.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Sandeep Singh Jattan, Advocate for the petitioner.
Mr. Gurmeet Singh, AAG Haryana.

SUMEET GOEL, J. (Oral)

1. Present second petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case bearing FIR No.387 dated 10.11.2023, registered for the offences punishable under Sections 328, 304 of IPC and Section 72-A of the Punjab Excise Act, 1914 (as amended by the Haryana Amendment Bill, 2020) (Section 304 of IPC has been deleted and Sections 120-B, 302, 201, 307 of IPC have been added later on) at Police Station Chhapar, District Yamunanagar, Haryana.

The petitioner has earlier applied for grant of regular bail before this Court which was dismissed on merits vide order dated on 30.08.2024.

Thereafter, the present petition i.e. the second petition for grant of regular bail, has been preferred by the petitioner on 03.04.2025.

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2. The gravamen of the FIR reflects that on 09.11.2023, information was received at Police Station Chhapar, District Yamunanagar regarding the death of one Jagmal, who allegedly died after consuming intoxicating/spurious country-made liquor upon receipt of the said information. The police reached Civil Hospital, Yamunanagar, where the deceased had been brought. On the following day, i.e., 10.11.2023, the statement of Mohit, son of the deceased, was recorded by the police, wherein he alleged that his father, who worked as a labourer, had consumed country-made liquor allegedly purchased from certain individuals, namely Raj Kumar @ Babli, Naresh Kumar @ Khuba, Rajesh Kumar and Radhey. It was alleged that the said liquor was poisonous in nature and resulted in the death of the deceased. On the basis of the said statement, FIR in question was registered and investigation was set into motion. During the course of investigation, several accused persons were arrested and their disclosure statements were recorded, pursuant to which the investigating agency claimed to have unearthed a larger network allegedly involved in the manufacture, supply and distribution of illicit and spurious liquor. Subsequently, upon further investigation and in view of the material collected by the investigating agency, Section 302 IPC was added while Section 304 IPC was deleted at the stage of framing of charge. During the course of further investigation, three more persons namely Anil Kumar, Paramjeet and Sushil were also stated to have died after allegedly consuming the spurious liquor.

3. Learned counsel for the petitioner has iterated that the petitioner has not been named in the FIR and has been falsely implicated

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into the FIR in question during the course of investigation. Learned counsel has further iterated that the petitioner has been nominated on the basis of the statement recorded under Section 161 Cr.P.C. of one Ajay Kumar (i.e. brother of deceased Paramjeet Singh), who has alleged that his brother used to purchase liquor from certain persons in the village. Learned counsel has further submitted that the allegations levelled against the petitioner are that he has purchased liquor from other co-accused persons and allegedly sold the same on retail basis in the village. It has been further submitted that the petitioner has no role in the manufacturing or adulteration of the alleged liquor and was not involved in any illegal activity relating to the preparation of spurious liquor. It has further submitted that even as per the prosecution case, the petitioner is merely alleged to be a seller or retailer of liquor and not a manufacturer or supplier of the allegedly spurious liquor. Learned counsel has emphasized that there has been no evidence to establish any conspiracy between the petitioner and other co-accused persons. According to learned counsel, the entire prosecution case against the petitioner rests solely upon custodial disclosure statement(s) which by themselves cannot constitute legally admissible evidence in view of the settled position of law. Learned counsel has emphasized that certain co-accused, who are alleged to have played a more prominent role, have already been granted the concession of bail by this Court and, therefore, on the principle of parity the petitioner is also entitled to the same relief. According to learned counsel, the petitioner has been in custody since 11.11.2024 and the investigation *qua* him stands concluded. Furthermore, the challan as well as supplementary challan have already been presented before the competent

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Court of jurisdiction. Learned counsel has emphasized that out of 105 prosecution witnesses cited not even a single witness has been examined so far and the trial is likely to take a considerable period of time to conclude. It has, thus, been submitted that the continued incarceration of the petitioner particularly in the absence of any substantive or direct evidence linking him to the alleged offence would serve no useful purpose. The petitioner shall undertake to abide by all conditions that may be imposed by this Court, including not tampering with the prosecution evidence or influencing witnesses and not leaving the country without prior permission of the Court. On the strength of aforesaid submissions, the grant of petition in hand is entreated for.

4. *Per contra*, learned State counsel has vehemently opposed the grant of bail to the petitioner by arguing that the allegations are grave and serious in nature as the case pertains to the manufacture and supply of illicit/spurious liquor which allegedly resulted in the death of certain persons. Learned State counsel has iterated that during the course of investigation, the investigating agency has unearthed a larger and well organized conspiracy involving multiple individuals engaged in the manufacture and distribution of poisonous liquor has been unearthed. According to learned State counsel, the petitioner has himself allegedly suffered a disclosure statement wherein he has admitted that he has purchased boxes of country-made liquor from co-accused persons and thereafter sold the same to various persons in his village. It has been further contended that the role attributed to the petitioner is that of retail sale of the liquor which ultimately reached the consumers and allegedly resulted in the



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deaths of several persons. Furthermore, the charges have already been framed by the learned trial Court for offences under Sections 302, 328 and 120-B IPC along with Section 72-A of the Punjab Excise Act, and, therefore, a *prima facie* case stands made out against the petitioner. Learned State counsel has pointed out that the earlier petition of the petitioner for grant of regular bail has already been dismissed and there is no substantial change in circumstances. Considering the gravity of the offence and the specific role attributed to the petitioner, learned State counsel has prayed for the dismissal of the instant petition.

5. I have heard learned counsel for the rival parties and have perused the available record.

6. It would be apposite to refer herein to a judgment passed by this Court in ***Rafiq Khan vs. State of Haryana and another: 2024: PHHC:054064***; relevant whereof reads as under:-

9. *The paramount issue, in any plea for grant of regular bail, is the liberty of an individual. Indubitably, within our society and jurisprudence, liberty is a cherished foundational principle and has fundamental ascendancy over all other attributes of social order. Even within the framework of Constitution, this principle is made conspicuous, inter alia, in Article 21 of our Constitution that no person shall be deprived of his personal liberty except according to procedure established by law. The Cr.P.C., 1973 is one such procedural law which permits curtailment of liberty of anti-social and anti-national elements. Yet, liberty of an individual, the accused, must not transgress the rights of another individual, the victim, in terms of right to dignified everyday life without any imminent fear or threat. Additionally, the rights of the collective of individuals viz. the State/Society at large, also cannot be neglected. Therefore, while countenancing the facts for considering the bail, the rights of the triad of accused, victim and the State (Society at large) ought to be entailed. Ergo, while considering a bail plea, the Court ought to take into account this core concept(s).*



9.1 *An analytical perusal of Cr.P.C. explicates that this statute does not contain any provision relatable to maintainability or otherwise of second/successive bail petitions, including one(s) seeking regular bail. Once there is no statutory prohibition provided for in law, a Court is not logically empowered to import into it such prohibitions, especially in case of codified and legislated law. It is trite law that Courts ought not to read a provision in codified law which has not been specifically provided for by the legislature especially when such reading results into deprivation of rights. The bar contained in Section 362 of Cr.P.C. can, by no stretch of legal imagination, be said to be barring the filing of second/successive regular bail petition.*

9.2 *The Hon'ble Supreme Court in case of **Babu Singh** case (supra) has held that rejection of a bail petition does not, by itself, forbid a Court from considering another one, later in point of time. Similar is the ratio decidendi of the judgment of Hon'ble Supreme Court in **Kalyan Chandra Sarkar** (supra). Ergo, it can be safely inferred that the decision of a Court qua regular bail petition is essentially an interlocutory order and hence the postulation of res judicata does not apply to its realm.*

9.3 *The issue that next craves attention is as to what are the factors/parameters for consideration of second/successive regular bail petition(s).*

9.4. *The concordant legal position is that the essential pre-requisite for consideration of second/successive regular petition is the material/substantial change in circumstances and factors of alike nature. Indubitably, the further period of incarceration suffered by the petitioner-accused after rejection/withdrawal of first/earlier plea for bail, pace of trial, the witnesses turning hostile or not supporting prosecution case and changed medical condition(s) of accused would be pertinent factor(s). It goes without saying that these factors are only illustrative in nature and cannot by any means be said to be exhaustive.*

9.5 *No rigid or universal criterion can possibly be delineated to conclusively govern the exercise of judicial discretion, in determining, as to what would constitute as the above stated substantial change in circumstances. Factual flexibility, one additional or different fact, may cause a sea of difference. There is no gainsaying that each case has its own distinct and unique facts and, hence,*



exercise of such judicial power is best left to the judicial discretion of a Court, in accordance with the settled norms of our jurisprudence.

10. *As an epilogue to the above discussion, the following principles emerge:*

I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”

7. The present petition is a second petition for grant of regular bail by the petitioner. A second regular bail petition is indeed maintainable under law; however, it requires demonstration of a substantial change in



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circumstances since the earlier petition. It is a settled proposition of law that such a change must be significant and not merely superficial or technical to warrant reconsideration. This standard ensures that the remedy of successive bail petitions is not misused through repeated filings but is available when new and material factors arise that alter the initial assessment of the case. The first regular bail filed by the petitioner was dismissed on merits on 30.08.2024. The instant petition i.e. second petition for grant of regular bail has been filed thereafter on 03.04.2025.

8. The grant of bail falls within the discretionary domain of the court; however, such discretion must be exercised in a judicious and principled manner, ensuring it aligns with established legal precedents and the interests of justice. While considering a bail application, the Court must evaluate factors such as the existence of *prima facie* evidence implicating the accused, the nature and gravity of the alleged offence and the severity of the likely sentence upon conviction. The Court must also assess the likelihood of the accused absconding or evading the due process of law, the probability of the offence being repeated and any reasonable apprehension of the accused tampering with evidence or influencing witnesses. Additionally, the character, antecedents, financial means, societal standing, and overall conduct of the accused play a crucial role. Furthermore, the Court must weigh the potential danger of grant of bail undermining the administration of justice or thwarting its due course. A profitable reference in this regard is made to the judgment passed by the Hon'ble Supreme Court titled as *State through C.B.I. vs. Amaramani Tripathi, 2005 AIR Supreme Court 3490*, relevant whereof reads as under:



“14. It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (see **Prahlad Singh Bhati v. NCT, Delhi, 2001(2) RCR (Criminal) 377 (SC) : 2001(4) SCC 280 and Gurcharan Singh v. State (Delhi Administration), AIR 1978 Supreme Court 179**). While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. We may also refer to the following principles relating to grant or refusal of bail stated in **Kalyan Chandra Sarkar v. Rajesh Ranjan, 2004(2) RCR (Criminal) 254 (SC) : 2004(7) SCC 528** : “The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

- a. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.
- b. Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.
- c. Prima facie satisfaction of the **court** in support of the charge. (see **Ram Govind Upadhyay v. Sudarshan Singh, 2002(2) RCR (Criminal) 250 (SC) : 2002(3) SCC 598 and Puran v. Ram Bilas, 2001(2) RCR (Criminal) 801 (SC) : 2001(6) SCC 338**.”

This Court also in specific terms held that :



“the condition laid down under section 437(1)(i) is sine qua non for granting bail even under section 439 of the Code. In the impugned order it is noticed that the High Court has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.”

In Panchanan Mishra v. Digambar Mishra, 2005(1) Apex Criminal 319 : 2005(1) RCR(Criminal) 712 (SC) : 2005(3) SCC 143, this Court observed :

“The object underlying the cancellation of bail is to protect the fair trial and secure justice being done to the society by preventing the accused who is set at liberty by the bail order from tampering with the evidence in the heinous crime..... It hardly requires to be stated that once a person is released on bail in serious criminal cases where the punishment is quite stringent and deterrent, the accused in order to get away from the clutches of the same indulge in various activities like tampering with the prosecution witnesses, threatening the family members of the deceased victim and also create problems of law and order situation.”

9. Indubitably, the allegations against the petitioner are grave in nature. The material which has come on record, at this stage, *prima facie* suggests that the petitioner has specially been attributed an active role in the alleged incident. The gravamen of the allegations in the FIR discloses that the deceased Jagmal has allegedly consumed illicit and poisonous liquor, which resulted in his death. On the basis of the statement of the



allegedly involved in the sale of such liquor. During the course of investigation, several accused persons were arrested and their disclosure statements were recorded, which led the investigating agency to unravel an alleged network engaged in the manufacture and distribution of spurious liquor. As per the case of the prosecution, the petitioner has allegedly purchased liquor from the co-accused and thereafter sold the same to the persons in his village. The material placed on record indicates that during the course of investigation the petitioner has been attributed a specific role in the sale of the liquor which was allegedly supplied by other co-accused persons. On the basis of the alleged role attributed to the petitioner in the supply chain, the petitioner has been arrested on 11.11.2024 and was arrayed as an accused in the supplementary challan. It is not in dispute that the petitioner has not been named in the FIR initially and his implication is based upon the material collected during the course of investigation. It is also a matter of record that the investigation has culminated in the filing of the challan as well as a supplementary challan and charges have been framed by the Court below against the petitioner and certain other co-accused for offences under Sections 302, 328 and 120-B IPC along with Section 72-A of the Punjab Excise Act. The record further reflects that the prosecution has cited a large number of witnesses and the trial is currently at the stage of recording evidence.

10. The allegations in the present case pertain to an incident involving the manufacture and circulation of illicit liquor leading to loss of human lives which is a matter of serious concern. The prosecution case, at this stage, *prima facie* indicates the existence of a conspiracy involving



multiple persons engaged in the supply and use of alcohol for the preparation of spurious liquor. The contention of learned counsel that the name of the petitioner does not find mention in the initial FIR and he has been subsequently nominated does not, by itself, create a ground for grant of regular bail, as it is well settled that an accused can be arrayed during the course of investigation if sufficient material surfaces against him. Moreover, such submissions would require deeper appreciation of evidence, which cannot appropriately be undertaken at the stage of consideration of a bail petition. It is apt to mention herein that the petitioner has a long criminal history involving a large number of cases registered against him. Though in some of the cases he has been released on bail but the nature of the cases cannot be ignored while considering the plea for grant of regular bail. The criminal antecedents of an accused are a relevant factor while considering the prayer for bail, particularly where there is a reasonable apprehension that the accused, if released, may indulge in similar activities or may attempt to influence witnesses. Furthermore, the alleged role of the petitioner, as projected by the prosecution, pertains to the supply of the primary raw material allegedly used in the manufacture of the illicit liquor which forms a significant link in the chain of events leading to the commission of the alleged offence. At this stage, it cannot be said that the role attributed to the petitioner is an insignificant one. The prosecution case specifically alleges that the involvement of the petitioner surfaced during investigation on the basis of material collected subsequently.

11. Furthermore, the plea of parity raised on behalf of the petitioner is misconceived as the parity is not to be applied in a mechanical



manner. In the considered opinion of this Court, the role attributed to each accused, their antecedents and other attending circumstances are required to be considered while deciding the plea for grant of bail. The petitioner has also sought bail on the ground of prolonged custody and snail pace of the trial. Though it is true that the petitioner has been in custody for a considerable period but the seriousness of the allegations and his criminal antecedents weigh heavily against him. The material which has been placed on record does not show that the delay in trial is solely attributable to the prosecution. In such circumstances, long custody, by itself, cannot be treated as a ground for grant of bail. At this stage, no accentuating circumstances have been made which may *prima facie* constitute a compelling ground for the grant of regular bail to the petitioner, especially in light of the gravity of the allegations and the evidence on record. It is also to be borne in mind that offences of this nature strike at the very root of public order and societal conscience. Granting bail in such cases would not only undermine the gravity of the offence but may also embolden the accused.

12. Considering the gravity of the offence, the stage of the trial and the overall facts and circumstances emerging from the record, this Court finds no merit in the present petition. Accordingly, this Court is of the considered opinion that the petitioner does not deserve the concession of regular bail in the factual *milieu* of the case in hand.

13. There is yet another aspect *namely* vital aspect of the matter which craves the attention of this Court.



13.1 There is no gainsaying that the powers of the High Court under Section 528 of BNSS, 2023 are powers which are unbridled, unfettered and plenary in nature aimed at securing the ends of justice. The inherent powers of a High Court are powers which are incidental replete powers, which if did not so exist, the Court would be obliged to sit still and helplessly see the process of law and Courts being abused for the purposes of injustice. In other words; such power(s) is intrinsic to a High Court, it is its very life-blood, its very essence, its immanent attribute. Without such power(s), a High Court would have form but lack the substance. These powers of a High Court hence deserve to be construed with the widest possible amplitude. These inherent powers are in consonance with the nature of a High Court which ought to be, and has in fact been, invested with power(s) to maintain its authority to prevent the process of law/Courts being obstructed or abused. It is a trite posit of jurisprudence that though laws attempt to deal with all cases that may arise, the infinite variety of circumstances which shape events and the imperfections of language make it impossible to lay down provisions capable of governing every case, which in fact arises. A High Court which exists for the furtherance of justice in an indefatigable manner, should therefore, have unfettered power(s) to deal with situations which, though not expressly provided for by the law, need to be dealt with, to prevent injustice or the abuse of the process of law and Courts. The juridical basis of these plenary power(s) is the authority; in fact the seminal duty and responsibility of a High Court; to uphold, to protect and to fulfill the judicial function of administering justice, in accordance with law, in a regular, orderly and effective manner. In other words;



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Section 528 of BNSS, 2023 reflects peerless powers, which a High Court may draw upon as necessary whenever it is just and equitable to do so, in particular to ensure the observance of the due process of law, to prevent vexation or oppression, to do justice *nay* substantial justice between the parties and to secure the ends of justice.

13.2 At this juncture, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in the case of ***Sanjay Dubey vs. The State of Madhya Pradesh and another, 2023 AIR Supreme Court 3263***, relevant whereof reads thus:

“10. Having given the matter our anxious and thoughtful consideration, though the appellant may have a point that, stricto sensu, in a petition under Section 439 of the Code, the concerned Court ought not to travel beyond considering the specific issue viz. whether to grant bail or reject bail to an accused in custody, it cannot be lost sight of that the Court concerned herein was not a ‘Court of Session’ but the High Court for the State of Madhya Pradesh, established under Article 214 of the Constitution of India (hereinafter referred to as the “Constitution”).

11. This singular fact, for reasons elaborated hereinafter, leads us to decline interfering with the Impugned Judgment, but for different reasons. We have no hesitation in stating that had the Impugned Judgment been rendered by a Court of Session, the factors that would have weighed with us would be starkly different.

*12. A little digression is necessitated. The High Court is a Constitutional Court, possessing a wide repertoire of powers. The High Court has original, appellate and suo motu powers under Articles 226 and 227 of the Constitution. The powers under Articles 226 and 227 of the Constitution are meant for taking care of situations where the High Court feels that some direction(s)/order(s) are required in the interest of justice. Recently, in *B S Hari Commandant v Union of India, 2023 SCC OnLine SC 413*, the present coram had the occasion to hold as under:*

“50. Article 226 of the Constitution is a succour to remedy injustice, and any limit on exercise of such power, is only self-imposed. Gainful refer- ence can be made to, amongst others, A V



Venkateswaran v. Ramchand Sobhraj Wadhwani, (1962) 1 SCR 573 and U P State Sugar Corporation Ltd. v. Kamal Swaroop Tandon, (2008) 2 SCC 41. The High Courts, under the Constitutional scheme, are endowed with the ability to issue prerogative writs to safeguard rights of citizens. For exactly this reason, this Court has never laid down any strait-jacket principles that can be said to have “cribbed, cabined and confined” [to borrow the term employed by the Hon. Bhagwati, J. (as he then was) in E P Royappa v. State of Tamil Nadu, (1974) 4 SCC 3 : AIR 1974 SC 555] the extraordinary powers vested under Articles 226 or 227 of the Constitution. Adjudged on the anvil of Nawab Shaqafath Ali Khan (supra), this was a fit case for the High Court to have examined the matter threadbare, more so, when it did not involve navigating a factual minefield.”)

13. Returning to the present case, though usually the proper course of action of the High Court ought to have been to confine itself to the acceptance/rejection of the prayer for bail made by the accused under Section 439 of the Code; however the High Court, being satisfied that there were, in its opinion, grave lapses on the part of the police/investigative machinery, which may have fatal consequences on the justice delivery system, could not have simply shut its eyes.”

13.3 The Hon’ble Supreme Court in a judgment titled as ***The Central Bureau of Investigation vs. Mir Usman @ Ara @ Mir Usman Ali, 2025 INSC 1155*** has held as under:

“35. The practice of conducting trials on a day to day basis more particularly in important or sensitive cases as was the tradition about thirty years ago has been given a complete go-by. We sincerely believe that it is high time that the courts revert to that practice. For the purpose of reverting to the old practice, it is necessary to understand the current social, political and administrative scenario including the way the Police are functioning. All the High Courts need to constitute a Committee to discuss this issue very seriously for the benefit of their respective district judiciaries.”

13.4 The chronic protraction of criminal proceedings serves as a systemic blight that transcends the individual interest of the accused,



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inflicting a highly deleterious impact upon the collective conscience of the society. While legal discourse frequently centers on the hardship of the incarcerated, it is a grave juridical error to overlook the active suffering and anguish visited upon the victim. For the aggrieved; an interminable trial is not merely a procedural delay but a form of secondary victimization leading to a state of perpetual emotional purgatory where the wounds of offense are kept raw by the lack of finality. A Three Judge Bench of the Hon'ble Supreme Court in ***Rattiram and Others Vs. State of M.P. through Inspector of Police; 2012 AIR Supreme Court 1485*** while appreciating the observation in ***Mangal Singh and Another Vs. Kishan Singh and Others; 2009 AIR Supreme Court 1535***; observed as under:

“47. While delineating on the facets of speedy trial, it cannot be regarded as an exclusive right of the accused. The right of a victim has been given recognition in Mangal Singh and Anr. v. Kishan Singh and ors., AIR 2009 Supreme Court 1535 wherein it has been observed thus :-

“Any inordinate delay in conclusion of a criminal trial undoubtedly has highly deleterious effect on the society generally and particularly on the two sides of the case. But it will be a grave mistake to assume that delay in trial does not cause acute suffering and anguish to the victim of the offence. In many cases the victim may suffer even more than the accused. There is, therefore no reason to give all the benefits on account of the delay in trial to the accused and to completely deny all justice to the victim of the offence.”

The fundamental principle of an ever-evolving liberty jurisprudence dictates that prolonged incarceration, absent any realistic prospect of a near-term conclusion of trial, renders continued pre-conviction detention constitutionally impermissible. Under the umbrella of Article 21 of the Constitution, the right to a speedy trial is recognized as an indispensable facet of the guarantee of life and personal liberty. The pre-



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trial incarceration must not, by mere flux of time, be permitted to assume the character of punishment, as the state cannot be allowed to achieve through procedural delay what it has not yet achieved through a verdict of guilt. However, this Constitutional promise is not an absolute or unregulated license, rather it ensures that deprivations of liberty are neither arbitrary, unconscionable nor unfair.

13.5 Where relief is being sought, solely upon the ground of procedural delay, the court must adopt a *golden mean* approach, where the rights of the accused/incarcerated person are protected without reducing the criminal justice system to a state of toothlessness. *Ergo*, the Constitutional inquiry into delay must be a contextual assessment of whether the continued detention remains constitutionally permissible under the specific penumbra of the case. Unless the delay is so inordinate that it shocks the judicial conscience, it cannot be treated as a solitary determinant for enlargement. A plea of delay cannot be examined in a legal vacuum or an abstraction; instead it must be weighed against the gravamen of allegations; specific role attributed to the applicant; trajectory of the trial; risks involved in enlargement of the applicant on bail, etc. A profitable reference in this regard can be made to the *dicta* passed by the Hon'ble Supreme Court in ***Gulfisha Fatima vs. State (Govt. of Delhi), SLP (Crl.) No.13988-2025***, relevant whereof reads thus:

“26. As the hearing progressed, however, it became evident that the plea of delay could not be examined in abstraction. In the course of submissions and rejoinder, reference was necessarily made to the nature of the allegations, the statutory framework invoked, and the role attributed to individual appellants. This was not a departure from the original submission, but a reflection of the legal reality that the constitutional question of delay does not arise in a vacuum.xxx

xxx.



30. *Article 21 occupies a central place in the constitutional scheme. The right to life and personal liberty, and the insistence that any deprivation must conform to procedure established by law, are foundational guarantees. The right to a speedy trial has been recognised as an important facet of this guarantee. It follows that pre-trial incarceration cannot, by the mere passage of time, be permitted to assume the character of punishment.*

31. *At the same time, Article 21 has never been understood as operating in isolation from law. The constitutional promise is not that liberty will be unregulated, but that deprivations of liberty will not be arbitrary, unconscionable, or unfair. The expression “procedure established by law” reflects that balance.*
xxx xxx.”

A justice delivery system rests on a simple promise; fairness delivered in reasonable time. Any procedural protraction does not merely delay the verdict; it actively erodes the edifice of public confidence in the judiciary. When a trial is allowed to languish, it transcends the aphorism that *‘justice delayed is justice denied’* and enters the more perilous territory of *‘justice doubted’*. In the constitutional scheme of Article 21, the Right to a Speedy trial is not a unilateral concession to the accused, but a collective entitlement shared by the victim & the State, ensuring that *Scales of justice* do not rust through inaction.

13.6 *Ergo*, in cases where, notwithstanding the lapse of time, the Court in its judicious wisdom finds that other factors preclude grant of bail, a proactive approach to prevent travesty of justice must be adopted. In such cases, the refusal to grant on bail must be coupled with a peremptory mandate of expeditious conclusion of trial (or in appropriate cases a time-bound conclusion of trial). A profitable reference in this regard can be made to the *dicta* passed by the Hon’ble Supreme Court in ***Tarun Kumar Vs. Assistant Director, Directorate of Enforcement; SLP (Crl.) No. 9431 of 2023***, relevant whereof reads thus:

When the detention of the accused is continued by the Court, the courts are also expected to conclude the trials within a reasonable time, further ensuring the right of speedy trial guaranteed by Article 21 of the Constitution.”

14. In view of the prevenient ratiocination, it is ordained thus:

(ii) The Court below is directed to make an earnest endeavour to expedite the trial and conclude the same as expeditiously as possible, preferably within a period of one year, in accordance with law. If need be, the learned trial Court is at liberty to adopt the procedure of day-to-day trial as enunciated by the Hon'ble trial Court in case of ***Mir Usman @ Ara @ Mir Usman Ali*** case (supra).

(iv) Pending application(s), if any, shall also stand disposed of.

March 06, 2026
Ajay

Whether reportable:	Yes/No
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