



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-23260-2025

DATE OF DECISION: 06.05.2025

RAJESH KUMAR PATIL ALIAS RANJEET

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. G.S.Sethi, Advocate with
Mr. Yajur Sharma, Advocate for the petitioner(s).

Mr. Rajiv Verma, Sr. DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)1. Prayer

This petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 praying for grant of Regular Bail to the Petitioner in FIR No. 14 dated 25.01.2025 (Annexure P-1) registered at Police Station Sadar, District Ludhiana for offences punishable under sections 109, 125, 324, 351 of BNS, 2023 to which section 326 (F) & 326 (G) of BNS, 2023 has been added later on.

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

‘Statement of Amit Kumar son of Late Ishwardeen Verma,



resident of House No. 331, near Post Office, village Tharika, Ludhiana, aged about 33 years, M.No.97814-43334. Stated that I am a resident of the aforementioned address and I do the work of sale purchase of CCTV camera and computer at Pakhowal Road Ludhiana in the name of AMIT Security Solutions. On 25.01.2025 at around 4:00 AM, my 6 days old son was crying. When we were roaming around in the lobby to pacify him, we saw on our LCD that there was a fire near the main gate of my house. When we saw our cameras, then at about 04:15 AM, a person named Rajish Kumar Patel alias Ranjit Patel, who resides in our street, who held a plastic bucket containing a flammable liquid such as petrol or diesel. That Rajish Kumar Patel was seen throwing the liquid contained in the bucket towards my gate and since there was a hole in the gate, the liquid substance was spurted over vehicle parked inside the house i.e. white coloured TVS IQ-9 Electric Scooter bearing registration No.PB10-JR 1934 make, one whit registration coloured No. Activa PB10-HX-3874, bearing gray coloured Royal Enfield motorcycle bearing registration No. PB10-GY-3878, gray coloured Activa bearing registration No. PB10-HB-2445, one silver coloured Splendor Motorcycle bearing registration No. PB10-FG-4623 and a black coloured 22 inch Hero bicycle, whereupon, the said Rajish Kumar Patel took out a matchbox from his pocket and put them ablaze, due to which, the door of the house and the said vehicles and all the belongings lying in the porch also caught fire. When the property and vehicles of our house were burning, Rajish Kumar Patel alias Ranjit Patel with a sword in his hand was standing in the chowk while hurling abuses loudly and was saying that none of their family members shall be spared today. Had we not known about the fire and there was no back door of our house, we could not run out of the house and would have died inside the house itself. He set our house on fire with the intention of killing our entire family. The cause of dispute is that Rajish Kumar Patel alias Ranjit Patel used to drive his vehicle bearing registration No. PB10-AM-150535 make SX-4 at high speed through the street at night with loud noise. Whom we and



other residents restrained from doing So, who then threatened me that if you stop me again, I will kill you and your family. Today he has fulfilled his assurance with the intention of killing. I request you that the said Rajish Kumar has damaged my house by setting fire to me and my family with the intention of killing. Appropriate legal action should be taken against him. I have recorded my statement with you, heard it, admit the same to be correct. Amit Kumar. Verified by ASI Saraj Kumar 450 Police Station Sadar Ludhiana. Dated 25.01.2025. Police Proceedings: Today I ASI alongwith ASI Rajinder Pal No. 2511/Ldh, Constable Husandeep Singh No. 1278/Ldh, PHG Kulwant Singh 21013 riding in a private vehicle was present near Tharike Chowk, Ludhiana in connection with checking of suspicious persons and suspicious vehicles, then Amit Kumar son of Late Ishwardeen Verma, resident of House No. 331, near Post Office, village Tharike, Ludhiana approached myself ASI and recorded his aforementioned statement, whose statement was recorded and read over, who after hearing and admitting the same to be correct, appended his signatures in English below his statement. Statement was verified by myself ASI. That from the transcript of the statement, offence under Section 109, 125, 324, 351 BBS 2023 is made out. That the statement is forwarded to the police station by hand of PHG Kulwant Singh 21013 for registration of case against Rajish Kumar Patel alias Ranjit under the given offence. After registration of case, the original statement alongwith copy of FIR be forwarded to the place of incident. information be transmitted to the control room. I ASI alongwith fellow officials as well as the complainant proceed towards the place of occurrence. Today at Tharike Chowk, Ludhiana at 2:30 PM dated 25.01.2025. On the receipt of the aforementioned statement in the police station today, case has been registered against Rajish Kumar Patel alias Ranjit under the given offence. Control room has been notified. Original statement alongwith copy of FIR is being referred to the ASI at the place of incident for investigation proceedings by hand of PHG. Rapat No. 16 at 15:14 PM dated 25.01.2025.'



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 there is no allegation of any bodily injury and physical harm caused to the complainant and his family members. He further submits that nothing is to be recovered from the present petitioner, moreso, the investigation in the case is complete as challan stands presented on 28.03.2025 charges are yet to be framed and there are total 12 prosecution witnesses are cited which are yet to be examined which is sufficient to infer that the conclusion of trial shall 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 another FIR, moreso, and there are serious allegations levelled against the petitioner that he tried to put on fire the house of the complainant by pouring kerosene oil.

4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 3 months and 9 day, nothing is to be recovered from the present petitioner, it is a case of no injury 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 28.03.2025 charges are yet to be framed and 12 prosecution witnesses are yet to be examined 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 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 “**Balwinder Singh versus State of Punjab and Another**”, SLP (Crl.) **No.8523/2024**. Relevant paras of the said judgment reads as under:-

“7. An accused has a right to a fair trial and while a hurried trial is frowned upon as it may not give sufficient time to prepare for the defence, an inordinate delay in conclusion of the trial would infringe the right of an accused guaranteed under Article 21 of the Constitution.

8. It is not for nothing the Author Oscar Wilde in “*The Ballad of Reading Gaol*”, wrote the following poignant lines while being incarcerated:



*“I know not whether Laws be right,
Or whether Laws be wrong;
All that we know who be in jail
Is that the wall is strong;
And that each day is like a year,
A year whose days are long.”*

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

06.05.2025
anuradha

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