

2025:PHHC:073609



251 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29364-2025
DECIDED ON: 28.05.2025

TASLEEM

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Farukh Abdullah, Advocate
for the petitioner.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. **Prayer**

The jurisdiction of this Court has been invoked 3rd time by the petitioner for grant of regular bail in FIR No. 109, dated 09.07.2024, under Sections 309(4), 126(2), 140(3), 61(2) of BNS, 2023, registered at Police Station Rozka Meo.

2. **Facts**

The brief facts of the present case, as narrated in the FIR reads as under:-

“To, the SHO ROZKA MEO, Sir, it is requested that I Mohd Atik son of Rashid resident of village Singar district Nun. I run my business. Today on dated 08.07.2024 I, Yasin son of Butari and Sahir son of Kallu residents of vizlage Singar district Nuh were going to sorna for our personal work in my car no. HR-93C-3885 brand Bilano white colour, when we reached near village

Salamba, a woman was standing on the way with her small child, who signaled to stop the car by waving her hand, when I stopped my car and asked, then that woman expressed her desire to go to Sonna and sat in our car. When we were going to Sohna, after crossing Rewasan village, we reached the nearby KMP bridge, at about 6:00 pm, a blue coloured Volkswagen car came from behind us, whose number I could not note down, and its driver stopped my car by blocking it with his car. Three persons came out of the car, beat me up, snatched the key of the car from me, and kidnapped the woman sitting in the car, her child, and Sahir son of Kallu, a resident of village Singar, district Nuh, and looted the car and took them away. At that very moment, a crowd of people gathered, and someone called on Dial 112, and the police arrived at the spot. Their name I later came to know as Rasid son of unknown resident of Nagli Nuh or Dama son of unknown resident of village Paldi and Tasleem son of Subhan Khan resident of village Nakalpur and Wajifa wife of has Mohammad resident of village Tirwada police station Bichhor district Nuh, currently tenant in Sohna, legal action should be taken against these people. Dated 9.07.2024 SD ATIK Applicant, Mohd Atik son of Rasid resident of village Singar district Nuh Mobile No. 8168007103”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the basis of disclosure statement suffered by his co-accused namely Wajifa, who has already been granted the concession of regular bail by learned trial Court vide order dated 10.10.2024 (Annexure P-2). He placed reliance upon the order dated 20.11.2023 (Annexure P-4) passed by co-ordinate Bench of this Court vide

which the co-accused namely Mukim Khan has already been granted the concession of anticipatory bail.

On behalf of the State

On the other hand, learned State counsel has produced the custody certificate of the petitioner in Court today, which has been taken on record. He opposes the present petition, arguing that there is a serious allegations against the petitioner that he along-with other co-accused has kidnapped Sabir son of Kallu, resident of Village Singar. Moreover, the car of the complainant was also recovered from the present petitioner. She submits that the petitioner is a habitual offender, as he is also involved in other cases, as is evident from the custody certificate.

4. **Analysis**

Be that as it may, considering the custody period already undergone by the petitioner, i.e., 10 months and 18 days, and the fact that the petitioner has been nominated on the basis of disclosure statement suffered by the co-accused Wajifa who has already been granted the concession of regular bail by learned trial Court vide order dated 10.10.2024 (Annexure P-2), coupled with the circumstance that since the framing of charges on 15.05.2025, none of the 11 prosecution witnesses has been examined, meaning thereby, conclusion of trial would take a considerable amount of time, this Court is of the view that detaining the petitioner 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 discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on him 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.

28.05.2025

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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No