

244

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-811-2025
DECIDED ON: 16.01.2025

MANPREET SINGH ALIAS JASHAN

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. J.S. Sekhon, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court has been invoked under Section 483 BNSS, 2023, seeking regular bail to the petitioner in case FIR No.183 dated 07.08.2024, under Sections 109, 3(5) of BNS and Sections 25 & 27 of Arms Act, 1959 registered at Police Station Tanda, District Hoshiarpur.

2. Facts

Facts as narrated in the FIR reads as under:-

“Statement of Ranbir Singh @ Rana son of Avtar Singh Chohata, Police Station Tanda, District Hoshiarpur, aged about 39 years, 99151-25302. Stated that I am resident of above said address and engaged in household work. On 06.08.2024 at about 5:10 PM, I went from my house for serving in Tahli Sahib. I left from Gurudwara Sahib at about 6:20 PM towards my house after paying obeisance at Gurudwara Sahib. I went on my motorcycle Passion. When I went little ahead than Gurudwara Sahib then I heard the bullet noise from behind me. The bullet hit on the shoulder of my right arm then I turned and saw then 2 youths on

motorcycle behind me who had muffled their faces and they were aged about 22/25 years. I have sped away the motorcycle on seeing them then they also followed their motorcycle behind me. The pillion rider stand up and then fired a shot towards me which did not hit me and I enter my motorcycle in the village. One more bullet fired again by the same pillion rider towards me, the said bullet was also not hit me. I neither know these unknown youths and nor identified them. Then these youths turned back the motorcycle. These youths had fired shots towards me with the intention to kill which coincidentally did not hit me then alarm was raised then my family members brought the vehicle outside the village and got me admitted in Secret Hospital, Jalandhar where I am under treatment. You have recorded my statement, heard which is correct. Appropriate legal action be taken against unknown persons. Sd/ - Ranbir Singh. Attested Sd/- Jagdeep I/C PP Basti Bohda dated 07.08.2024. Police proceedings: On 06.07.2024, a telephone call was received from Secret Hospital, Jalandhar that injured Ranbir Singh @ Rana son of Avtar Singh, resident of Chauhan is admitted due to fire shot. Upon which, I ASI along with ASI Lok Ram 19, PHG Sarwan Singh 26047 reached at Secret Hospital, Jalandhar in private vehicle and obtained the written opinion from the doctor. The doctor declared the injured to make the statement. The injured got his statement recorded before me, to whom the statement has been read over and who after admitting his statement as correct appended his signatures in English and I attest the same. From the statement, offence u/s 109, 103(5) BNS, 25, 27, 54, 59 of A. Act is found to be made out. Statement after recording is being sent to police station through PHG Sarwan Singh 26047 for registration of case. Control room be informed. Special reports be issued. I along with fellow officials left for the spot. Sd/- Jagdeep Singh I/C PP Basti Bohra dated 07.08.2024. In the area of Secret Hospital, Jalandhar at 1:20 PM. Today at police station: On receipt of above said writing to police station, after registering the case under above offences, original writing along with copy of FIR is being sent on the spot to ASI through PHG. Special reports are being sent to Illaga Magistrate and senior officers through PHG Malkeet Singh 456/HSP. Control room is being informed through wireless/email message. Closing Rapat No.28 dated 07.08.2024.”

3. Contentions:

On behalf of the petitioner

Learned counsel for the petitioner would submit that the petitioner has been falsely implicated in the present case and there is a delay of 18 days in lodging the FIR. It is further submitted on behalf of the petitioner that the present

case has been got registered by the complainant only due to the reason that the petitioner has provided secret information to the police authorities about the complainant that he has been selling drugs in that area.

On behalf of the State

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the present petition stating that the petitioner is involved in one another case, therefore, does not deserve the concession of bail.

4. **Analysis**

Be that as it may, considering the fact that the petitioner has already suffered incarceration of 4 months and 19 days, as is evident from the perusal of the custody certificate added with the fact that investigation is complete, challan stands presented on 24.11.2024, charges are yet to be framed and total 9 prosecution witnesses are cited for examination, meaning thereby conclusion of trial shall take considerable time, no useful purpose would be served by keeping the petitioner behind the bars for an indefinite period, which would curtail right of the petitioner for speedy trial and expeditious disposal, as enshrined under Article 21 of the Constitution of India as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***. 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.

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 lend the petitioner in a situation of denial the concession of bail.

5. **DECISION:**

In view of the discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on 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

16.01.2025

Meenu

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*