



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

236

CRM-M-19231-2025

DATE OF DECISION: 22.04.2025

SANDEEP AND ANOTHER

...PETITIONERS

Versus

STATE OF HARYANA AND ANOTHER

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Dharam Bir Bhargav, Advocate for the petitioner(s).

Mr. B.S.Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)**1. Prayer**

This petition has been filed under Section 483 BNSS r/w Section 439 Cr.P.C. for grant of regular bail to the petitioners in FIR No. 0036 dated 15.02.2025, registered under section 111(3), 140 (1) BNS and sections 111(4), 115(2), 126(2) BNS (Added Later On) at Police Station Cheeka, District Kaithal, during the pendency of the trial, in the interest of justice.

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

‘Brief facts of the case are as follows: To, SHO Sahib, Police Station Cheeka. Subject: Application for legal action against accused No. 1 Sandeep Saini resident of Bhagal, accused No. 2 Ramphal Gurjar resident of Karall and other 5-6 persons. Sir, It is requested that 1 Kuldeep S/O Deshraj am a permanent



resident of Dhanouri, Tehsil Kaithal, District Kaithal. I have good terms with Kashmir S/o Puran Singh, Ward No. 4, Cheeka, Tehsil Guhla, District Kalthal. Often we both stay together. On 14.02.2025 at 07.30 or 08.00 pm, I was coming from Kashmir's Dera to Cheeka in Kashmir's car Creta no. 'HR-09-E-4800. As soon as I started entering from Kalarmajra Road to Pehwa Road, at that very moment a car XUV came from side of Cheeka and stopped in front of my car. Then six men came out of the car. Out of them, accused no.1 Sandeep caught me by the collar and pulled me out of the car and started beating me with sticks and accused no. 2 Ramphal Gurjar, along with his other companions, forcibly gave me beatings and put me in the XUV car. Sandeep and Ramphal Gurjar, along with their other companions, beat me up in the car and were saying that we will teach you a lesson for supporting Kashmiri and staying with him. According to our thinking, Kashmira was not found in the car. If you both had met, it would have been a different fun and they were also saying that we already have 7/8 rases against us. What difference will It make if one or two more cases are filed. Saying this, they beat me up and took me to Bhagal canal. Two of them were driving my car. Then they took me around and left me with my car at Bhagal canal and fled with their vehicle. All of them were saying that this is the traller of the film, tell your Guru Kashmira that if you interfere in our work, the consequences will be bad. I have got my medical done in the government hospital Guhla. The accused Sandeep and Ramphal along with their 5/6 other companions were to take me and Kashmira in the car with the intention of killing us. The accused had come to attack with a well-planned strategy and plan and when I was found alone, they kidnapped me and hit me with sticks and caused injuries. Strict legal action should be taken against them. SD/- Kuldeep Applican.: Kuldeep S/o Deshraj Dhanori, Tehsil and District Kaithal 93502-46468 Police action: Today on 15-02-2025, I SI along with HGH Gurjeet Singh No. 1531 along with government vehicle number HR08GV-4620 marka Bolero whose driver Darshan Singh HKRN was present at Udham Singh Chowk during patrolling and at that time Kuldeep S/O Deshraj



resident Dhanori, Tehsil Kaithal, District Kalthal appeared at Udham Chowk, Cheeka and presented his written application and MLR No P/353/25 DT 14-02-2025. And in MLR No.P/353/25 dated 14.02.2025 doctor have written 5 injuries to injured Kuldeep. And all the injuries are written as BLUNT, KUO and ADV XRAY. After getting the application and MLR, crime under Section 111(3), 140(1) BNS Is found and after writing the application, HGH Gurjeet Singh No.1531 is sent to police station for registration of the case. After registering the case, case number be informed. Special report of first investigation report is sent to higher officials as per procedure. I SI is busy in investigation. Place: Udham Singh Chowk SD Baljeet Singh SI PS Cheeka, Dated 15.02.2025 at 01.20 AM. Today after getting the application in police station, FIR No.36 dated 15.02.2025 under Section 111(3), 140(1) BNS is registered in Police Station Cheeka and after getting the copy of complaint and original complaint was given to Munshi Jaspal No.410/Kaithal and I Homeguard Gurjeet No.1531 was sent to Investigation Officer as per procedure. Copy of First Information Report as special report is sent to higher officials through e-mail. First Information Report is registered in the presence of Sub Inspector Vikram Singh No.1017/Kalthal.

3. **Contentions**

On behalf of the petitioner

At the outset, learned counsel for the petitioners submits that the matter has been compromised between the parties on the basis of compromise dated 20.03.2025 (Annexure P-3), with the intervention of the respectable of the society. He further submits that it is a case of no injury. He further submits that a petition for quashing of FIR on the basis of said compromise, has already been preferred, in which statements have already been recorded. Moreso, the investigation in this case is complete as challan stands presented on 15.04.2025 charges are



yet to be framed and there are total 10 prosecution witnesses cited, which is sufficient to infer that the conclusion of trial is likely to take considerable time, therefore, prays for grant of regular bail to the petitioners.

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 petitioners, which are taken on record.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the petitioners are habitual offender as they are involved in other FIR also but is not in a position to controvert the submissions made by learned counsel for the petitioners.

4. Analysis

Considering the custody period undergone by the petitioners No.1 i.e. 2 months and 3 days and petitioner No.2 i.e. 02 months and 4 days, moreover, parties have already settled the matter and therefore, chances of acquittal cannot be ruled out, added with the fact that investigation is complete, challan stands presented on 15.04.2025 charges are yet to be framed and 10 prosecution witnesses are yet to be examined. This Court is sanguine of the fact that conclusion of trial shall take considerable time, no useful purpose would be served by keeping the petitioner behind bars for uncertain period, wherein "*bail is a rule and jail is an exception*" and it would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of 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 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 land the petitioner in a situation of denial of the concession of bail.

5. **Relief**

In view of the aforesaid discussions made hereinabove, the petitioners are directed to be released on regular bail on their 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

22.04.2025
anuradha

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