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2025:PHHC:051260



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

**CRM-M-13992-2025  
DECIDED ON: 22.04.2025**

**SHIVAM**

**.....PETITIONER**

**VERSUS**

**STATE OF PUNJAB**

**.....RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Arnav Sood, Advocate  
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

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**SANDEEP MOUDGIL, J (ORAL)**

**1. Relief sought**

The jurisdiction of this Court has been invoked under Section 483 Of BNSS (Bharatiya Nagarik Suraksha Sanhita, 2023) for grant of Regular Bail to the Petitioner, in case, DDR No. 27, Dated 18.02.2021 under sections 307, 458, 148, 149 IPC and 25/27 of Arms Act registered at Police Station City Banga, District SBS Nagar (cross case) in case First Information Report No. 15, Dated 16.02.2021, under sections 302, 307, 148, 149 of IPC and Section 25, 27 of Arms Act registered at Police Station City Banga, District S.B.S Nagar.

2. Prosecution story setup in the present case as per the version in the DDR as under:-

*“Statement of Ex: Sarpanch Tarsem Lal aged 62 years son of Shri Jeet Ram resident of Village Heo, Police Station City Banga, District Shaheed Bhagat Singh Nagar. Mobile NO.9814223971. Stated that I am resident of above said address and I am Ex. Sarpanch of the village. My wife Balvir Kaur is currently sarpanch. My house is close to the house of Lakhwinder Singh @ Matru son of Surjit Singh. Lakhwinder Singh @ Matru is residing with his mother Jasvir Kaur, brother Gurpreet Singh and his sister. His father Surjit Singh is living abroad. On 15/16.02.2021 I was sleeping with my family at my house. Time was 2:25/27 AM. My sister in law Satya woke up for going to washroom. She told me that there is noise of firing at Matru house and maybe someone attacked on his house. I went to the roof and saw something like fireworks going on. I immediately called at police station. Attackers were abusing and shouting on Lakhwinder Singh @ Matru. Firing continued for almost for 10 minutes at Matrus house. I got scared and immediately called at police station. When firing got stopped then I saw one black colour Jeep taking back turn from his house. When you arrived then one boy in unconscious state was lying on road in front of house Lakhwinder Singh @ Matru. There was big wound on the back side of his head. There were empty shells of bullets lying on the road. Main gate of the Lakhwinder Singh's house was closed from inside and lights were also off. Lakhwinder Singh @ Matru escaped along with his family. Today I had talked to the relatives of the Matru over the phone and they told me that Matru informed us that he had a enmity with Surjit Singh of Gobindpur and due to this reason he along with other boys attacked at his house with an intention to kill and fired shots. Due to fear they are not coming home. I have recorded my statement. I have read and heard my statement which is correct. Legal action be taken.”*

3. **Contentions**

**On behalf of the petitioner**

Learned counsel for the petitioner contends that it is case of version and cross-version and after a delay of more than 02 days, aforesaid false DDR was got registered against the petitioner and others by the opposite party alleging therein that the petitioner and others went to the house of the complainant and fired shots. He further contends that similarly situated co-accused namely Gurmeet Singh @ Geetu has already been granted the concession of anticipatory bail by a Coordinate Bench of this Court vide order dated 05.01.2022, which was made absolute on 17.02.2022 (Annexure P-3) passed in CRM-M-50248-2021.

**On behalf of the State**

On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition on the ground that the petitioner along with co-accused persons had attacked upon the house of complainant and fired bullets from their respective weapons. He further submits that the petitioner is a habitual offender as he is involved in multiple cases.

4. **Analysis**

Be that as it may, considering the custody period i.e. 02 year, 01 month and 16 days for which the petitioner has suffered incarceration and the fact that it is case of version and cross-version and after a delay of more than 02 days, aforesaid false DDR was got registered against the petitioner and others by the opposite party; similarly situated co-accused namely Gurmeet Singh @ Geetu has already been granted the concession of

anticipatory bail by a Coordinate Bench of this Court vide order dated 05.01.2022, which was made absolute on 17.02.2022 (Annexure P-3) passed in CRM-M-50248-2021.

Also considering the fact that investigation is complete, challan stands presented to Court on 01.05.2023, charges have been framed on 23.08.2023 and out of total 26 prosecution witnesses none has been examined so far, which is suffice for this Court to infer that the conclusion of trial will take long time for which the petitioner cannot be detained behind the bars for an indefinite period.

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 “*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 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.

**(SANDEEP MOUDGIL)**  
**JUDGE**

**22.04.2025**

*Poonam Negi*

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*