



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

279

CRM-M-31876-2025 (O&M)
DATE OF DECISION: 04.07.2025

GURPREET SINGH ALIAS GOPI

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Riffi Birla, Advocate for the petitioner(s).

Mr. Sandeep Singh, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. **Prayer**

The jurisdiction of this Court under Section 483 of BNSS for grant of regular bail to the petitioner in FIR NO. 123 Dated 05.07.2024 registered Under Sections 118, 115 (2) of BNS, 2023 (Section 118 (2) and 238 of BNS added later on) at Police Station Sadar Fazilka, District Fazilka (Annexure P-1), pending 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 :-

'Statement of Aajad Kumar son of Sultan Ram son of Chand Wasi Karni Khera, Police station Sadar Fazilka aged about 22 years Mb. NO. 80549-48002, stated that I am resident of aforesaid



address and works as a laborer. I had family relations with Gurpreet Singh Gopi son of Makhan Singh resident of Waddi Odian Dhani. About 1 years ago, I had advance an amount of Rs.30,000/- to Gurpreet Singh Gopi and when I demanding my money back then Gurpreet Singh @ Gopi became furious. 02.07.2024 at about 09.30pm Gurpreet Singh Gopi came to my house on his splendor motorcycle and said to me that we have to go somewhere and made me sit on his motorcycle and alongwith him and at some distance from the village, he stopped his motorcycle near seepage canal and said to me that you demand money from me and now I will give you money then in the meantime Gurpreet Singh @ Gopi took out his kapa from his motorcycle and started giving continuous kappa blows on me, which hit On above my left knee, on the knee and on the left leg then I raised alarm in loud voice then he again gave more kappa blow on my head and I in order to save myself raised my right hand which hit on my right hand then I fell down, then he gave kick blows on my chest and neck then I raised alarm of mardita-mardita then some people of my village were seen coming and on seeing them assailants fled away on his motorcycle alongwith his weapon and boys of my village took care of me and informed my family members and my mother Pushpa came on the spot and arranged a vehicle and got me admitted to Civil Hospital, Fazilka. The bone of contention is that he has inflicted injuries to me demanding back my money. on Statement has been recorded. Heard and it is correct. Action may be taken. Sd/-in English Aajad Kumar aforesaid, Sd/ in English Pushpa Devi wife of Sultan Ram, verified by Sd/ Satnam Dass ASI, P.S. Sadar Fazilka dated 05.07.2024. police proceedings: MLR NO.PPS/90/DH/FZK/2024 dated 02.07.2024 of injured Aajad Kumar son of Sultan Ram, resident of Karni Khera, in which total 5 injuries, injury NO.1,2,3,4, are sharp and injury.'



2. **Contentions:**

On behalf of the petitioner

It has been contended by learned counsel for the petitioner that as per the allegation the petitioner was allegedly armed with kapa and gave injury on the knee, though that injury has been declared grievous in nature but the petitioner has undergone custody for a period of 2 months and 13 days, moreover his antecedents are clean as he is not involved in any other case and the scuffle took place due to some provocation. Moreso, the investigation in this case is complete as challan stands presented on 13.06.2025 charges are yet to be framed and 9 PWs are cited by the prosecution, 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 petitioner.

4. **On behalf of the State/complainant**

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to which the petitioner has suffered incarceration of 2 months and 13 days. He prays for dismissal of the present petition on the ground that the petitioner instead of returning money to the complainant, caused injuries to him with kapa.

5. **Analysis**

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 2 months and 13 days, antecedents of the petitioner are clean, meaning thereby he is not a habitual offender and the scuffle was result of some provocation, moreover, no proof of advancement of loan by the complainant has been



placed on record; 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 13.06.2025 charges are yet to be framed and 9 PWs are cited by the prosecution, 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 Nimesh 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.”*

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

04.07.2025
anuradha

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