



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-24921-2025 (O&M)  
DECIDED ON: 13.05.2025

HEMANT ALIAS MONU

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Samay Singh Sandhawalia, Advocate  
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

**SANDEEP MOUDGIL, J (ORAL)**

**CRM-18892-2025**

This is an application for seeking exemption from filing certified/original/legible/true typed copies of appended annexures.

For the reasons mentioned in the application, the same is allowed. Exemption sought for is granted.

Application stands disposed off.

**CRM-M-24921-2025**

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 483 of BNSS seeking grant of regular bail to the petitioner in FIR no. 316 dated 24.10.2024, PS Sadar Jhajjar, Jhajjar, under sections 109(2), 115, 117(2), 190, 191(2), 351(3), 118(1), 118(2), 238(a) and section 27 of Arms Act (Annexure P-1).

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

*“Statement of Jitender Panghal s/o Raj Kapoor, resident of Village Raiya, District Jhajar, Mobile No.9991845900. Stated that I am resident of the above mentioned address and I work as a landlord and my family has Harom Brick Kiln, which I and other family members look after. I am married and we are two brothers. My elder brother's name is Sanjeet. Sanjeet also takes care of the Brick Kiln. Yesterday on 23.10.2024 at about 8 pm. my brother Sanjeet and my Chacha's son Sankit son of Suresh had gone to their fields to water the paddy crop. At about 10.30/11 pm, both the brothers were smoking hookah near the liquor vend. Two days ago, my brother Sanjeet was threatened on phone by the liquor contractor Diwan son of Bhola, resident of Sikandarpur. I got a phone call from my brother that the liquor contractor has called up about 15-20 boys, who have come in separate cars i.e. a black colour Scorpio and an Alto car and they are trying to kill us. I quickly left on my motorcycle. As soon as, I reached there, one of them took out a long gun from a black colour Scorpio and started firing. My Chacha's son Sankit caught his gun and furred it upwards. The fire that happened could have taken a life. When I tried to lift the shell, then the gunman hit me on the head with buft of the gun and also caused injuries to me, my brothers Sanjeet and Sankit. I kept the empty shells with me. Meanwhile, my father Raj Kapoor s/o Ran Singh also reached the spot. After the fight, my father brought us to Government Hospital Jhajjar for treatment. Lateron, opposite party also came to the government hospital by following us and accused started beating Sanjay in the hospital. When my father went to rescue him, one of the accused hit my father with a sharp Sua in his left eye. My father screamed that he has lost his eyesight and the other one hit us with iron glucose stand and others also caused us beating, due to which, I got injuries on my head, leg, eye, ribs and elbow of left hand. I have identified the people who hurt me and my family. Their*

*names are Bindu son of Dharambir, r/o Shekhupur (Salesman), Diwan son of Bhola, resident of Sikanderpur (liquor contractor), Gulshan son of Ramphal, resident of Samalkha, Ajay son of Sukhbir, resident of Bhiwani, Hemant son of Satish Kumar, resident of Hedahedi Pataudi and I do not know the names of others but I can recognize them on coming before me. Kindly initiate legal action by lodging FIR against above said persons and justice be delivered to us. I have the empty shell and a video of the fight occurred in government hospital, which I will produce before you.”*

### 3. **Contentions**

#### **On behalf of the petitioner**

Learned counsel for the petitioner contends that the petitioner is on better footing as the allegations of giving injury on the head with the butt of the gun has been attributed to the co-accused namely Gulshan. He further contends that it is subsequently on disclosure statement of Gulshan, the onus has been shifted to the present petition that does not find any support from the material on record with the prosecution which is otherwise contrary to first version in the FIR.

Mr. Sandhawalia, learned counsel for the petitioner further argues that there is clear cut improvisation in the case of the prosecution and co-accused Gulshan, along with co-accused Maman @ Bintu, Diwan Singh have already been granted the concession of bail by the trial Court vide orders dated 24.04.2025, 02.04.2025 and 18.03.2025 respectively (Collectively Annexure P-2).

#### **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 does not controvert the abovesaid fact and seeks dismissal of the instant petition on the ground that the petitioner is a habitual offender as he is involved in another case.

4. Analysis

Be that as it may, considering the fact that the arguments raised by learned counsel for the petitioner have not been controverted by the learned State added with the fact that the petitioner was nominated on the basis of disclosure statement of main accused Gulshan; the petitioner has already suffered incarceration for a period of 06 months and 16 days added with the facts that co-accused namely Gulshan, Maman @ Bintu and Diwan Singh have already been granted the concession of bail by the trial Court vide orders dated 24.04.2025, 02.04.2025 and 18.03.2025 respectively (Collectively Annexure P-2); investigation is complete, wherein challan stands presented to Court on 09.05.2025, charges are yet to be framed and total 22 prosecution witnesses cited, which is suffice for this Court to infer that the conclusion of trial shall take considerable time, this Court is of the considering view that detaining the petitioner behind the bars for an indefinite period would serve 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.”*

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**

**13.05.2025**

*Poonam Negi*

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*