



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

**CRM-M-22753-2025
DECIDED ON: 05.05.2025**

KULWANT SINGH

....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Hakam Singh, Advocate for the petitioner.
Mr. Rajiv Verma, Sr. DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 483 of BNSS, 2023 for grant of regular bail in FIR No. 258 dated 24.12.2024, under section 103, 115(2), 118(1), 191(3), 190 of BNS, 2023 and 25 and 27 of Arms Act registered at police station Lopoke, District Amritsar Rural.

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

'Statement of Amandeep Singh @ Aman S/o Prakash Singh, R/o Boparai Kalan, P.S. Lopoke, District Amritsar, aged about 29 years, mobile No.9814936061 stated that I am resident of above address and am doing agricultural work. We are 4 brothers-sisters, out of which two sisters are elders, who are married. One of my brothers Gurmit Singh, who is elder to me and is married. I am still bachelor. My brother Gurmit Singh is a truck-driver. That on dated 23.12.2024 at about 09:30/10:00 PM that my brother Gurmit Singh went out of the house at firni and after some time, I heard the noise of some

dispute. I went out and saw that in front of the house of Bakhshish Singh, one bulb with heavy light was lighting. That after going there, I saw that Satbir Singh s/o Davinder Singh was carrying 12 bore rifle, Kulwant Singh s/o Darshan Singh was carrying Dang, Tanmanpreet Singh s/o Jarnail Singh was carrying Dang. Simranjit Singh S/o Bakhshish was carrying Dang, residents of Boparai Kalan were abusing my brother. Kulwant Singh s/o Darshan Singh shouted lalkara saying catch them and teach them for opposing us in the election and while I was seeing, Satbir Singh above directly fired from his 12 bore rifle at my brother Gurmit Singh with the intention to kill him. This fire hit in his stomach. That I came forward to save my brother, then Kulwant Singh attacked me with the Dang carried in his hand hitting my left arm below the arch. Then Simranjit Singh attached with his Dang which was hit on my left shoulder, thereafter, Tanmanpreet Singh has attacked me with his Daagn which hit my right leg and toe. I shouted, "mar-ditta, mar-ditta", then the accused persons ran away from the spot with their weapons. After hearing my noise, my cousin (son of my tayaji) Sukhdeep Singh s/o Balbir Singh R/o Boparai Kalan reached on the spot, who arranged the vehicle and took me and my brother to Amandeep Hospital, Amritsar where the doctor declared my brother Gurmit Singh as dead and started my treatment after admitting me. Reason of enmity is that during Panchayat election, candidate of our party won the election and the candidate of Satbir Singh's party got defeated. That till this day, Satbir Singh used to argue with us on this matter and was keeping enmity in his mind. Statement has been got recorded, read, heard and found to be correct. Sd/- Amandeep Singh. supported by Sd/- Sukhdeep Singh Balbir Singh'

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been actively engaged in local elections, which appears to be the

underlying reason for his false implication in the present case. He further contends that the brother of the complainant was shot by the primary accused Satbir Singh with 12-bore rifle and the role attributed to the petitioner is that he inflicted stick blow on the left arm of the complainant, which is on non-vital part of the body. He has further submitted that the co-accused namely Simranjit Singh and Tanmanpreet Singh have already been granted the concession of anticipatory bail by this Court vide orders dated 07.02.2025 (Annexure P-4) and 17.03.2025 (Annexure P-5) passed in CRM-M-7191-2025 & CRM-M-14152-2025 respectively. It has been contended on behalf of the petitioner that he is a man of clean antecedents as he is not involved in any other case.

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 present petitioner was armed with stick and gave blow on the left arm of the complainant.

4. **Analysis**

Be that as it may, considering the custody period undergone by the petitioner i.e. 04 months and 06 days added with the facts that the injury attributed to the petitioner is on the non-vital part of the body; co-accused namely Simranjit Singh and Tanmanpreet Singh have already been granted the concession of anticipatory bail by this Court vide orders dated 07.02.2025 (Annexure P-4) and 17.03.2025 (Annexure P-5) passed in CRM-M-7191-2025 & CRM-M-14152-2025; the petitioner is not a habitual offender as he is not involved in any other case, as is evident from custody

certificate produced today in Court by learned State counsel; investigation is complete, wherein challan stands presented to Court on 24.03.2025, charges are yet to be framed and total 17 prosecution witnesses are yet to be examined, 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 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 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**

05.05.2025

Poonam Negi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No