

2025:PHHC:070283



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

**CRM-M-27464-2025
DECIDED ON: 23.05.2025**

DARSHAN KAUR

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Yagsimant Attri, Advocate
for the petitioner.

Mr. Rajiv Verma, Senior DAG Punjab

Mr. Aman Mittal, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This is First Petition under section 483 Bharatiya Nagarik Suraksha Sanhita (BNSS) for grant of regular bail to the petitioner in FIR No.27 dated 21.3.2022 (P-1) registered u/s 342, 341, 323,506,148,149 IPC (Sec 325/365/367 IPC added Later on) at P.S. Ghanaur District Patiala (Annexure P-1), in the interest of justice, equity and fair play.

2. Facts

Facts as narrated in the FIR reads as under:-

“Copy of the original report at this time SHO with other employees obtained statement of Kulwinder Singh son of Balbir Singh resident of

village Mughal Sarai police station Sambhu district Patiala age about 42 years Mobile No. 9464439001 present at AP Jain Hospital Rajpura which is attached stated that I am a resident of the said address and working as a plumber. Yesterday on 17-3-22 at around 5.00 PM that I was doing some tap pipe fitting work in the house of Gurmail Singh son of Narata Singh, resident of village Sandharsi, police station Ghanor, district Patiala, when my brother-in-law Gurpreet Singh, Manjot Singh son of Tarlochan Singh, Tarlochan Singh son of Ajmer Singh, Harpreet Singh son of Darshan Singh, Darshan Singh son of Ajmer Singh, resident of village SuniarHedi Dera, Mani Singh son of Darshan Singh, resident of village Bhathla Police Station Patiala, Ginny resident of Village Maan, District Patiala, and 7-8 unknown persons whom I can identify when come in front of me who came in a Swift car, who were holding baseball bats, chains and belts, who started telling me to come out of the house. When I came out the above said persons started abusing me then I asked why are you abusing then Gurpreet Singh started to hit me on the head with the stick (the stick of spade) held in his right hand, so I raised my right arm to defend myself, but the said stick of spade hit my right elbow, but when he did it a second time, the said spade hit me on the head and Harpreet Singh alias Honey holding the spade in his right hand and hit at my back, and these two persons grabbed me and threw me on the ground and beat me up a lot and Gurmel Singh and his wife Ajaib Kaur tried hard to free me from these people. All these people started beating Gurmel Singh and Ajaib Kaur. Then I started running away from these people but then these people again surrounded me and beat me up. Then these people forcibly threw me into the Swift car. Beating me, they took me at canal bridge Ghanor and started telling me that i am not worthy of them, and I should jump into the canal or else they will kill me and throw in the canal because there was too much traffic there, they could not throw me in the canal and the person took me to their house at SuniyaraHedi Dera and there they started beating me in front of my wife Narinder Kaur and then my aunt-in-law Darsan Kaur, wife of Darsan Singh resident of

village Bhathla came and started beating me who previously also gave me threats to kill then the above said persons took me to the police station patiala under the pretext of going to the hospital. who did not let me get out of the vehicle and at police station Patiala my wife Narinder Kaur's aunt's daughter Karamjit Kaur is stationed in the police station who helped my in laws family. Then police station personnel's asked them he is injured a lot firstly take him for treatment then abovesaid person took me into vehicle no. HR-19-4000 Mark Scorpio at about 3AM but taken me at police station, Shambhu where handed me over to duty officer SHO Angrej Singh, then Mr. Angrej Singh called my family members in my village, Mughal Sarai Shambhu. Due to the injuries, I sustained in the fight, my brothers Tejinder Singh and Gurmail Singh resident of Sandharsi arranged a private vehicle and admitted me to the government hospital AP Jain Hospital Rajpura, where i am under treatment where I made my statement written and read it and correct. Adequate action should be taken against these persons SD Kulwinder Singh confirmed statement correct Gurmail Singh verified correct Sher Singh ASI police station Ghanoor date 19/3/2022”

3. Contentions:

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case and was not named in the FIR. The name of the petitioner was added later on. He further argues that no role has been attributed to the petitioner and there is matrimonial dispute between the complainant and the wife of the petitioner.

On behalf of the State

On the other hand, learned State Counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for 26 days.

Learned State Counsel assisted by learned counsel for the complainant prays for dismissal of the present petition stating that in this case, challan is yet to be presented.

4. **Analysis**

This Court is mindful of the fact that the FIR has been pending for a considerable period, and the challan against the accused persons who were initially arrested in connection with the FIR is yet to be filed. However, the petitioner was nominated subsequently based on supplementary statements made by other co-accused. This, however, cannot be a justification for the inordinate and undue delay in completing the investigation and filing the challan, to the prejudice of the petitioner and to the advantage of the State.

In the light of above, 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.”

5. **Relief:**

In view of the discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on 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

23.05.2025

Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>