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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28622-2025
DECIDED ON: 28.05.2025

RAJWINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. A.S. Dhaliwal, Advocate
for the petitioner.

Mr. Rajiv Verma, Senior DAG Punjab

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

The jurisdiction of this Court has been invoked under Section 483 BNSS, 2023 seeking regular bail to the petitioner in case FIR No. 0010, dated 18.01.2025, under section 115(2), 126 (2), 351, 324 (4), 191 (3), 190 BNS 2023, 109 and 304 BNS (added later on vide Report no. 21 dated 20.01.2025) Police Station Baghapurana, District Moga, Punjab.

2. Facts

Facts as narrated in the FIR reads as under:-

“Statement of that Iqbal Singh alias Kala son of Late Ruldu Singh resident of Near Gurdwara Sahib, Natho ke Tehsil and Police Station Bagha Purana, District Moga age near 40 years Mobile no. 99149-50918 Addhar Card no. 5308 4644 3732, it is stated that I am a

resident of above mentioned address and for last 8-9 months, am working as helper at Sky wine Baghapurana Firm, my duty is at the office of the firm along with looking after the work related to Theka in the village and along with the team going for cash collection, like this only yesterday on 17.01.2025 at around 09:00pm under the witness of Manjinder Sharma, Inder Singh, Harpreet Singh and myself on a Scorpio colour white and whose registration number is PB-29-AH-0549 which was being driven by Manjinder Sharma were living for office, Baghapurana main Liquor Theka, Rajjeana, when we reached too near the Liquor Theka, Rajjeana then two young people who had hair cut, they were arguing at Liquor Theka with the salesman Daljeet Singh resident of Rajjeana, when we got off from the Vehicle immediately and asked them about the reason of the argument then they started hurling abuses and threatened way serious consequences and ran away from the spot, we sat for 40- 45 minutes at the Main Theka of Liquor Rajjeana near the Scorpio so that these mischievous youth do not cause any damage by coming again at the Liquor Theka, when for 40-45 minutes there was no occasion for any suspicion then Manjinder Sharma cashier Sky wine who was driving the Scorpio said that lets also collect cash in the meanwhile from the Liquor Theka lying in the middle of village Rajjeana then he also told me that he will turn the Vehicle and in the meanwhile you collect the cash from the main Theka on which I asked the sales man to give the cash, he had kept it counted and handed me over 15 Thousand rupees. I had to deposited it with cashier at Baghapurana. Thereafter, we reached at the Liquor Theka of the village, then there was gathering of 20-25 people who were armed with deadly weapon like Khanda, Dagger, Iron rods, base bat, some youth were holding bricks and stones also, all the youth seemed like they have taken some intoxicant all of these immediately surrounded the vehicle, out of them Lovely son of Nathu Ram resident of Rajjeana who was holding a baseball at once hurled the abuse of sister hit that baseball on the windscreen of our Scorpio, due to the which the wind screen broke down, after that Mota son of Nikra vapari who was having a Khanda while hurling

abuses hit that Khanda on the Front Light of the Scorpio and broke the lights in the same manner Rajwinder Singh son of Sukhdev Singh resident of Rajjeana who was having a Kirpan started hitting the roof of the Scorpio with this Kirpan and one more boy Bobby son of unknown resident of Rajjeana who was having the Iron rod hit the back glass of the the side of the Scorpio and started shattering the glass, in the meanwhile Lovely and Jashanpreet Singh son of Gela Singh and Rama son of Panni Palle said to 12-13 more unknown boys while raising the Lalkara in loud voice that what they are waiting for today these big Thekedars of Liquor should be taught a lesson so that they do not come again to Rajjeana by saying this all of them with their respective weapons and bricks and stone attacked on the Scorpio and damaged the Scorpio severely, and dragged Harpreet Singh from his throat and threw him on the ground and started beating him when I try to save him after getting down from the vehicle moving forward then said Lovely hit straight on my head due to which I fell down, Mota, Rajwinder caught hold of Harpreet Singh and the other boys started slapping him and punching him one by one then I started requesting them that we are the employees and what is our fault then he also started beating me. During this time afore said Lovely said that damage their Vehicle severely so that this vehicle is cannot ply then all of them with their weapons and Iron rods shattered the vehicle. During this time taking benefit of the opportunity and darkness Manjinder Sharma Cashier and in the same ran away from the spot while saving their lives. Because of this grudge Lovely said hit one more time with his base bat at my left thigh at which I fell down on the ground and while I was lying down the unknown persons kicked me due to which I received the hidden injuries during this time all of them threw Harpreet Singh on the ground and during this time only Rajwinder Singh said attacked from the rear side of the Kirpal on the right Cheek of Harpreet Singh because of which he fell down unconscious during this time our employers somehow came to know about this incident on which they also came on the spot after saying them all these said accused ran

away from the spot along with their weapon, our employers picked us up and Harpreet Singh aforesaid in an unconscious condition and I was conscious due to this I told my employers about the whole incident when I showed them the Scorpio vehicle then they was lying a cash of 15,000/- Rupees which a collected from Rajjeana Main Theka and after seeing the fight put the envelope continue the cash in the back side pocket, it was also missing except for these the papers of the vehicle were also missing all this documents and cash has been picked by Lovely because when I was lying on the ground then Lovely was doing the search of the Vehicle. Whom I have seen with my eyes, they have attacked us because they had a suspicion that their illegal Liquor is not getting sole because of us due to enmity only all of them in connivance with each other have beaten us an have damage the vehicle and have removed the papers and cash from the vehicle. Legal action may be taken against them and justice may be done to me, our employers after arranging the vehicle have got admitted us in the Government Hospital Moga for treatment, where I am undergoing the treatment, I have given my statement, it is heard understood and its correct. Action may be taken. LTI/ Iqbal Singh stated SD/- Rajinder Kumar son of Agya Ram resident of Hushiar now contractor Sky Wine Baghapurana verified correct/- Ranjit Singh ASI Baghapurana dated 18.01.2025 action police."

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. He submits that as per the version narrated in the FIR, the role attributed to the petitioner is only of causing injury on the right cheek of Harpreet Singh with the reverse side of the kirpan and the said injury has been declared simple in nature.

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 4 months and 4 days.

Learned State counsel does not controvert the submissions made by learned counsel for the petitioner.

4. Analysis

Considering the facts the injury attributed to the petitioner is simple in nature and not dangerous to life; antecedents of the petitioner are clean, as is evident from the perusal of the custody certificate added with the fact that investigation is complete, challan stands presented on 19.04.2025, charges are yet to be framed and total 16 prosecution witness are to be examined. This Court is sanguine of the fact that conclusion of trial shall take considerable time, 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.”

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 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

28.05.2025

Meenu

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