



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15142-2025
DECIDED ON: 07.04.2025

NANAK SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vishva Bahl, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 483 BNSS for grant of regular bail to petitioner in FIR No. 235 dated 10.12.2023 registered under sections 307, 332, 353, 186, 224, 225, 506 IPC 1860 at Police Station Gate Hakima, District Police Commissionerate Amritsar.

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

“Station House Officer Gate Hakima "Jai Hind Today I SI along with ASI Malkeet Singh 2315, ASI Dilbagh Singh 660, C Constable Rajwant Singh 2915, Constable Manpreet Singh 3010 along with the accused persons in FIR No. 234 dated 10.12 2023 registered under section 21-B. 29/61/85 NDPS Act, police station Gate Hakima, Amritsar namely 1. Roop

Singh alias Rupa son of Mahinder Singh, resident of House no. 107, street no. 2, New Kot Atma Ram, Sultanwind Road, Amritsar. 2. Gagandeep Singh alias Gaggi son of Satnam Singh, resident of street no. 4. Angarh Amritsar have raided the house of newly added accused in the case namely Nanak Singh son of Gurdeep Singh, resident of street no. 4, Angarh, Amritsar and Vikram Singh alias Vicky son of Gurdeep Singh, resident of street no. 4, Angarh Amritsar. The accused Nanak Singh above said on seeing the police party had run away and went on to the roof, I SI left ASI Malkeet Singh 2315 and C. Rajwant Singh 2915 with the arrested accused and along with other officials had gone to the roof and apprehended accused of case namely Nanak Singh above said, he suddenly started throwing brickbat upon police and then Nanak Singh above said forcefully had tried to run away from the police and started pooling himself from the police, some ladies also started pushing the police out of which one lady who was handicap from leg and was not able to walk properly and one another young person came along with police party and started abusing and the above said ladies and the young person forcefully started pushing and pooling with us and started tried to save Nanak Singh from the clutches of polices, due to all this tussle and fight with the police in which the jacket and shirt of uniform of ASI Dilbag Singh and constable Manpreet Singh got torn and Nanak Singh due to all this has escaped from the police party and run away and then the another young person and both ladies and some unknown persons and ladies started throwing bricks and stones from the roof over the police party, one of stone was hit with an intention to kill by one young person on constable Manpreet Singh on his head with an intention to kill. Due to which he got injured. The person who had given head injury to constable Manpreet Singh he was found out to be another named accused of above said case namely Vikram Singh alias Vicky, all the above said persons and ladies got escaped Nanak Singh from the police party forcefully and after giving threatenings they had run away. the persons who had fought

with police and Nanak Singh who was required in the above said case has forcefully been taken away, their identification will be done from the spot, they have been identified as Nanak Singh son of Gurdeep Singh, Vikram Singh alias Vicky son of Gurdeep Singh, Geeta daughter of Gurdeep Singh and Poonam wife of Nanak Singh, residents of street no. 4 Angarh Police Station Gate Hakima, Amritsar remaining persons will be identified later on. The above said accused by taking away the named accused Nanak Singh from the police custody and by doing life threatening attack on police party and by tearing the uniform of police officials and by injuring the police official have committed offence under section 307, 332, 353, 186, 224, 225, 506 IPC, I SI along with other officials are busy at the spot in the investigation of the case, therefore, FIR be registered against Nanak Singh son of Gurdeep Singh, Vikram Singh alias Vicky son of Gurdeep Singh, Geeta daughter of Gurdeep Singh and Poonam wife of Nanak Singh, residents of street no. 4, Angarh Amritsar, for registration of FIR ruqa is being sent by hand constable Rajwant Singh 2915 to police station, after registration of FIR its number may be informed, special reports may be issued to Illaqa Magistrate and higher officers. Control room may be informed. I SI along with fellow employees is busy in investigation at the spot. Today at area Angarh Amritsar at 09.40 PM sd/-Balwinde Singh SI Incharge Chowk Angarh Police Station Gate Hakima, Amritsar dated 10.12.2023.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner is at parity with co-accused Vikram Singh @ Vicky, who has already been granted the concession of regular bail by this Court vide order dated 04.03.2025 (Annexure P-4) passed in CRM-M-2231-2025. He further contends that the petitioner has been nominated as an accused only on the

basis of disclosure statement of co-accused namely Roop Singh @ Rupa. It has been further contended that the police party raided the house of the present petitioner but at that time he was not present at his house.

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 petitioner is a habitual offender as he is involved in two other cases.

4. **Analysis**

Be that as it may, considering the custody period i.e. 09 months and 09 days for which the petitioner has suffered incarceration; the petitioner is at parity with co-accused Vikram Singh @ Vicky, who has already been granted the concession of regular bail by this Court vide order dated 04.03.2025 (Annexure P-4) passed in CRM-M-2231-2025 and the fact that the petitioner has been nominated as an accused only on the basis of disclosure statement of co-accused namely Roop Singh @ Rupa.

Also considering the fact that investigation is complete, challan stands presented to Court on 23.09.2024, charges have been framed on 19.02.2025 and out of total 14 prosecution witnesses none has been examined so far, which is suffice for this Court to infer that the conclusion of trial will take long time for which the petitioner cannot be detained behind the bars for an indefinite period.

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 “***Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna***”, (1980) 1 SCC 98. Besides this, reference can be drawn upon that pre-conviction period of the under-trials should be as short as possible keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “***Baljinder Singh alias Rock vs. State of Punjab***” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner

are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of concession of bail.

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

07.04.2025

Poonam Negi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No