



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

**CRM-M-28509-2025  
DECIDED ON: 29.05.2025**

**ANKIT SHARMA**

**.....PETITIONER**

**VERSUS**

**STATE OF HARYANA**

**.....RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Anil Mehta, Advocate and  
Ms. Livleen Brar, Advocate  
for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

**SANDEEP MOUDGIL, J (ORAL)**

1. The jurisdiction of this Court has been invoked for the second time under Section 483 of BNSS Bharatiya Nagarik Suraksha Sanhita (BNSS) for release of the petitioner in the case FIR No. 262 Dated 28.08.2023 (Annexure P-4) under Sections 420, 406 and 120-B of the Indian Penal Code registered at P.S. Dadri City, District Charkhi Dadri, Haryana whereby no offence is made out against the petitioner as he has been falsely implicated and arrayed as an accused in the FIR.

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

*“Complaint No. 1186-PG-SPL dated 30.06.2023 Office of the Superintendent of Police. Charkhi Dadri. After the investigation report from the Economic Offense Branch, Dadri, the complaint has been received at the police station. The details of the complaint are as follows:*

*Subject: Complaint regarding fraud and cheating by Ankit Sharma and his father Uttam Sharma, Mobile Number 9039858813, who misled about the auction of Haryana government land in Charkhi Dadri, took approximately 40 lakh rupees and promised land acquisition. Respected Sir, My name is Puran Chand son of Birbal and I live in a rented house in Charkhi Dadri, My son has been friend with Mukesh Kumar, son of Ramesh Chandra, a resident of village Berla, Thana Bahda, Charkhi Dadri, Haryana for a long time. They visit each other's homes regularly. On 28/12/2021, my son went to Mukesh's house, and Mukesh had come with his friend Ankit Sharma son of Uttam Sharma, who resides at house no. G-90/12, Bhim Nagar, Tulsi Nagar- Thana TT Nagar, Bhopal, Madhya Pradesh. Mukesh introduced my son to Ankit Sharma. From then my son and Ankit Sharma occasionally kept in touch. In October-November 2022, Ankit Sharma informed that his father is a Grade-2 officer in the Forest Department in Satpuda Bhawan, Bhopal and he has good connections with senior officers in the Delhi Forest Department and other states. Ankit Sharma said that Haryana Government would soon auction land in several districts and offered to help my son acquire land by using his father's influence. He stated that he would secure land for us at a lowest price and guaranteed it through . his father Uttam Sharma. Later, Ankit Sharma sent a notice via WhatsApp stating that the Haryana government would auction land in February or May 2023, and if my son was interested, he should let him know. The land would be registered in the buyer's name after the full payment in five installments. My son told me about this offer, and though I initially refused, after discussing with Ankit's father Uttam Sharma. I was persuaded that it was confidential information, and if I had the money I could buy the land through their help. After repeated persuasion, my son and I agreed to buy the land. On 12/12/2022 Ankit Sharma and Mukesh went to Mandi Dabwali where Ankit using Mukesh's phone asked my son to meet him in*

*Charkhi Dadri with 10 lakh rupees, saying the land purchase form needed to be filled on 15h December. I went with Ashok to Charkhi Dadri and gave Ankit Sharma 10 lakh rupees in cash after which Uttam Sharma assured me that the money was safe. On 01/02/2023 Ankit Sharma came to Delhi and told my son that the second installment for the land was due, and he needed to arrange the money. Ankit also suggested that my son invest the Amul as an intermediary, promising good returns. My son asked for time to think and returned to Chandigarh. Later, my son transferred 1.5 lakh rupees to Ankit Sharma's account on the pretext of a shortfall in an Amul order. Ankit asked for more money and my son continued to transfer funds for the land purchase. There were multiple payments made to Ankit Sharma and his father under the pretense of securing land. But after several months the promised documents never arrived. When we contacted them, they insisted we wait until May 23rd 2023. On 22nd May we discovered that Ankit Sharma had absconded and sent messages claiming to committed suicide falsely implicating my son. Uttam Sharma filed a missing person report in Bhopal. However, when we began pressuring them for a refund. Ankit Sharma sent threats via email and WhatsApp to my son threatening to have him arrested or harm his career. Uttam Sharma had previously given my son a letter from the Bhopal Forest Department allowing him to participate in the Charkhi Dadri land auction. Therefore, I request that appropriate action be taken against Uttam Sharma and Ankit Sharma and that the money I lost be recovered.”*

3. Having gone through the bank statements produced before this Court as well as submissions made by learned State counsel having instructions from IO SI Ramesh Kumar that the petitioner has actually returned Rs.43 lacs out of alleged total amount of Rs.51 lacs to the complainant. Now the dispute remains for approximately Rs.14 lacs, in any

case, even if the version of the prosecution is to be believed and major part of the disputed amount stands settled by the petitioners. He has also produced the custody certificate of the petitioner today in Court, which is taken on record. As per the custody certificate the petitioner is a habitual offender as he is involved in four other cases.

4. Learned counsel for the petitioner further submits that the petitioner is ready and willing to settle the matter with the complainant though he is not party to the present petition before this Court as is evident from memo of parties attached with the present petition.

5. Having regard to the other added factors that the petitioner has suffered sufficient incarceration for a period of 01 year, 05 months and 21 days; challan stands presented to Court on 29.01.2024 but the charges are yet to be framed and total 20 prosecution witnesses have been cited.

6. 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.”*

7. 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.”*

8. 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.

9. 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.

10. In the afore-said terms, the present petition is hereby allowed.

11. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

29.05.2025

*Poonam Negi*

**(SANDEEP MOUDGIL)**  
**JUDGE**

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*