



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRA-S-818-2025 (O&M)  
DECIDED ON: 18.03.2025

KAPTAN SINGH

.....APPELLANT

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Keshav Pratap Singh, Advocate and  
Mr. Vikas Kumar Sharma and Ms. Meghna Nehra, Advocates  
for the appellant.

Mr. Surender Singh Pannu, Addl. A.G., Haryana.

**SANDEEP MOUDGIL, J (ORAL)**

1. **Relief sought**

The instant appeal has been preferred against the impugned order dated 25.02.2025 passed by Addl. Sessions Judge, Karnal, whereby the regular bail to the appellant was declined in FIR No.298, dated 24.12.2024, under Section 3(1)(s) of SC/ST Act, 1989, registered at Police Station Nigdhu, District Karnal.

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

*“Contents of the application are as follows: To The SHO, Police Station Nigdhu (Karnal) Subject-Application against Kaptan Singh son of Sube Singh, caste Rajput, resident of village Nigdhu, District Karnal, for making a video viral on social media using objectionable and casteist about words entire the Balmiki community and damaging the reputation*

*of the society, for taking a registering a case. strict legal action by Sir, It is requested that we applicants are residents of village Nigdhu, Tehsil Nigdhu, District Karnal and we request you as under: 1. That we applicants belong to Balmiki caste and the above accused Kaptan Singh belongs to Rajput caste, who has caste hatred towards our caste and has already insulted us publicly in the village many times by using objectionable and casteist words about our society and on the evening of 09.01.2024, the above accused made a video on the phone and sent it to the people of our village Nigdhu in different groups, using abusive words about our caste and saying that Balmikis, you cannot survive without Chowdhary-Rajputs, we are the only ones who are useful in your bad time. (Pen drive of the video is attached). 2. At that time our society tolerated the insult thinking that the brotherhood of the village will be broken but after this the courage of the above accused kept on increasing and due to this caste hatred and animosity, the accused Kaptan Singh made a video yesterday evening dated 07.02.2024 and made it viral on social media, in which the accused is openly using objectionable, insulting and casteist words about our caste and saying that the work of Balmikis is to sweep and clean and they will be put on cleaning only and is also using abusive words about another community Kashyap that the work of Kashyaps is to catch fish. 3. Sir, it is also mentioning worth that during the Panchayat elections in November 2022, the above accused had called a person and said about a candidate contesting the elections by using similar casteist words and asked him why he had put a garland around the neck of a CHUHRA. 4. Sir, by using casteist words and abusive words about all castes, the above accused is not only ruining the brotherhood of the village but is also spreading animosity in the society and the entire Balmiki community is angry about this. The accused is a domineering person and can commit an untoward incident in the village at any*

*time, therefore it is very important to arrest him immediately and take action against him. Therefore, you are requested to keep the above facts in mind and register a case against the above accused and take strict legal action SO that peace and brotherhood remain in the village.”*

3. **Contentions**

**On behalf of the appellant**

Learned counsel for the appellant argues that the only allegation against the appellant is that he made casteist remarks to the complainant, calling him a "chura" by caste and a "worm of dirty water from the drain." Furthermore, the appellant allegedly did not stop there and continued his outburst, stating that the complainant's value was only 200 rupees, among other similar comments. Apart from above, no other role has been attributed to the appellant, as has been averred by learned counsel for the appellant.

**On behalf of the State/complainant**

On the other hand, learned State counsel has produced the custody certificate of the appellant today in Court, which is taken on record. He along with Ms. Pallavi Babbar, Advocate, who puts in appearance on behalf of the complainant and has filed Power of Attorney, seek dismissal of the instant petition on the ground that the appellant 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. 01 month and 05 days for which the appellant has suffered incarceration; apart from the casteist remark, no other allegation has been attributed to the present appellant in addition to the fact that challan is yet to be presented before the trial Court, meaning thereby investigation is still under progress, which is

suffice for this Court to infer that the conclusion of trial will take long time for which the appellant 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 appellant 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**

**18.03.2025**

*Poonam Negi*

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*