

2025:PHHC:067473



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

**CRM-M-26613-2025
DECIDED ON: 20.05.2025**

PARVEEN SEHRAWAT ALIAS SHOOTER

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Pawan Kumar Hooda , Advocate
for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG Haryana

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This petition has been filed under Section 483 of BNSS, 2023 grant of regular bail in FIR No. 0114 dated 14.06.2020 registered under Sections 302, 148, 149, 120-B of IPC and Sections 25/54/59 of Arms Act, 1959 registered at Police Station Julana, District Jind.

2. Facts

Facts as narrated in the FIR reads as under:-

“Statement of Amandeep S/O Wazir Singh caste Jat, resident of Nidana District Jind age 32 years Mobile No.9416984651. Stated that I am a resident of above mentioned address and I work agriculturist. We are two sisters. have set up We a two brothers and all married. are Dhaba machine (Dharam Kanta) in Gohana Road, rent and we which

we operate and We Weighing farm our have given the on the as on Weighing machine and both of us brothers often used to stay at the Weighing machine (Dharam night of Kanta). On the intervening 13/14.06.2020, due to bad weather, I and my brother Sandeep alias Sonu aged about 34 years, were sleeping separately on a cot inside the Dhaba, when at around 2.45 AM a Fourtuner vehicle stopped at our Weighing machine and from it Sudhir S/O Subhash, Naveen s/o Mahabir, Ajay alias Kala s/o Kuldeep caste Jat residents of Village Nidana, Devender son of Vanjir and Sumeet S/O Rajpal caste Jat residents Shamlo Kalan got alighted and came inside the Dhaba and Sumeet and Devender had pistols in their hands and as soon as they came, Sumit and Devender shot my brother Sandeep alias Sonu who was sleeping on the cot, at the instigation of Sudhir, Naveen and Ajay. After shooting, all of them left the spot in a car. Then I arranged for a vehicle and brought my brother Sandeep alias Sonu to the Government Hospital Jind for treatment where the doctor declared my brother Sandeep alias Sonu dead. Two to three days back all of them had come to Sandeep alias Sonu at our Dharmkanta and were pressurizing Sandeep alias Sonu to sell liquor at the Dhaba or the adjacent brick kiln, which Sandeep alias Sonu refused to do as liquor was banned in our village. For this reason they shot and killed my brother Sandeep alias Sonu. Legal action should be taken against them. I have got recorded my statement, it has been heard, it is correct. Sd/ Amandeep ATTESTED Kulbir Singh ASI I/C PP Gatauli DT. 14.06.2020."

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 on the basis of disclosure statement of co-accused Sumit, who has already been acquitted alongwith four other accused persons namely Devender Singh, Sudhir, Naveen Ajay vide judgment of acquittal

dated 01.05.2024 (Annexure P-2). He further submits that no specific role or overt act has been attributed to 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 8 months and 24 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that the petitioner was present at the spot of occurrence and was part of the conspiracy.

4. **Analysis**

Considering the fact that except the allegation against the petitioner to be that of present at the place where the conspiracy was stated to have been hatched, there is not other overt act coming across and moreover the petitioner was nominated on the basis of disclosure statement of Sumit, who has already been acquitted alongwith four other accused persons vide judgment of acquittal dated 01.05.2024 (Annexure P-2) passed by the Additional Sessions Judge, Jind added with the fact that complainant has also been examined, who could not identify the present petitioner, therefore, there is a strong probability of acquittal of the petitioner.

In the instant case, challan stands presented to the Court on 24.10.2024, charges have been framed on 16.01.2025 and out of total 29 prosecution witnesses, none has been examined so far, meaning thereby 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

20.05.2025

Meenu

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