



IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

226

CRM-M-25431-2025  
DATE OF DECISION: 15.05.2025

ARVIND KUMAR

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Vijay Deep, Advocate for the petitioner(s).

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

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**SANDEEP MOUDGIL, J (ORAL)**1. **Prayer**

This petition has been filed under Section 439 of the Cr.P.C. for the grant of Regular Bail to the petitioner in the F.I.R. No. 47 dated 18-06-2024 (P-2) under Section 120-B, 419, 420, 467, 468, 471 of Indian Penal Code, 1860, (later on 201 IPC has been added) registered at P.S. Cyber Crime, Sonipat.

2. Prosecution story set up in the present case as per the version in the FIR reads as under :-

*'o, Police Station Head Cyber District Sonipat. Sir, it is requested that the applicant name Naveen Kumar Singh son of Shri B.N. Singh resident of 79-80 Industrial Firm Gate Agro Milk Private Limited Kundli Sonipat, I am working as General Manager. On 12/06/2024 at around 01:30 Noon, I received a WhatsApp call from 923266968443 on my phone number 9690003853 in the afternoon. On receiving the call, the caller said*



*that this is a police verification call, are you Naveen Kumar Singh, on saying yes, he said that your son Sagun Chandel along with his four friends has been apprehended in Madhya Pradesh in a rape case, but I (caller) also know that he (Sagun Chandel) is innocent. Then we said let us talk to our son, then he cried in the voice of our son Sagun and said Papa save me, then after this he said if you want to save me then you will have to pay for the police and doctor. Thereafter, at about 02:00 P.M. he has given details of the bank accounts for giving money as follows:-*

Sr. No.	Date	A/c debit from	A/c credit to	IFSC Code	Transaction	Amount
1.	12.06.2024	ICICI BANK 1323015080 28	KOTAK MAHENDR A 7548147556	UPI ID	41642629 3	25000
2.	12.06.2024	ICICI BANK 1323015080 28	KOTAK MAHENDR A 7548147556	UPI ID	41642791 8644	20000
3.	12.06.2024	ICICI BANK 1323015080 28	KOTAK MAHENDR A 7548147556	UPL ID	41642809 5144	10000
4.	12.06.2024	AXIS Bank 9160100066 33144	KOTAK MAHENDR A 7548147556	UPI ID	45305823 5589	25000
5.	12.06.2024	AXIS Bank 9160100066 33144	KOTAK MAHENDR A 7548147556	UPI ID	45303503 5219	15000
6.	12.06.2024	ICICI BANK 1323015080 28	KOTAK MAHENDR A 4648698698	UPI ID	41642029 4073	40000
7.	12.06.2024	ICICI BANK 0830015083 92	KOTAK MAHENDR A 4648698698	UPI ID	45301998 7603	10000
8.	12.06.2024	ICICI BANK 0830015083 92	KOTAK MAHENDR A 4648698698	UPI ID	41649518 7872	50000
9.	12.06.2024	HDFC Bank 1460193000 438	HDFC Bank 50100725974 598	HDFC00017 73	00053378 5587	50000
10.	12.06.2024	PNB SHOP	HDFC Bank 50100725974 598	HDFC00017 73		25000
11.	12.06.2024	IDBI	HDFC Bank 50100725974 598	HDFC00017 73	41647393 3215	75000
12.	12.06.2024	PNB	PNB 17501001000 10099	PUNB01750 10	41641822 0851	25000
13.	12.06.2024	PNB	PNB 17501001000	PUNB01750 10	41641822 0852	25000



			10099			
14.	12.06.2024	SBI	IBIB 7792577304	IDIB8000G0 65	GLOBAL TRAVEL S	50000
15.	12.06.2024	SBI	CBI 3453062379	CBIN028408 3	GLOBAL TRAVEL S	50000
16.	12.06.2024	SBI	CBI 3453062379	CBIN028408 3	UTR4164 73379605	25000
					Total	5,20,000/-

### 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 the petitioner was not named in the instant FIR and the only allegations qua him is that he shared his account. He has further argued that the antecedents of the petitioner are clean. He urges that the prosecution is delaying the matter is evident from the zimni orders dated 18.11.2024, 20.12.2024, 03.1.2025, 14.01.2025, 28.01.2025, 11.02.2025, 25.02.2025, 08.04.2025, 22.04.2025 and order dated 24.01.2025 passed in CRM-M-3293-2025 that no prosecution witness is appearing and it is causing prejudice to the petitioner, which are annexed as Annexure P-3 and P-4. Moreso, the investigation in this case is complete as challan stands presented on 03.10.2024 charges stands framed on 21.10.2024 out of 8 prosecution witnesses, none has been examined so far which is sufficient to infer that the conclusion of trial is likely to take considerable time, therefore, prays for grant of regular bail to the petitioner.

#### On behalf of the State

On the other hand, learned State Counsel appearing on advance notice, accepts notice on behalf of respondent-State and has filed the custody certificate of the petitioner, which is taken on record.



Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail stating that serious allegations are levelled against the present petitioner.

#### 4. Analysis

From the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 8 months and 5 days; out of total 8 prosecution witnesses, none has been examined so far since framing of charges on 21.10.2024, meaning thereby the delay in conducting the trial is by and large on the prosecution; antecedents of the petitioner are clean, meaning thereby he is not a habitual offender, and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt, and therefore, detaining the petitioner behind the bars for an indefinite period would solve no purpose.

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 “**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 aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

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

The petition in the aforesaid terms stands allowed.

**(SANDEEP MOUDGIL)  
JUDGE**

**15.05.2025**  
*anuradha*

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