



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31652-2025
DECIDED ON: 18.06.2025

HARISH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Kunal Dawar, Advocate for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 483 of BNSS, 2023 for grant of Regular Bail to the Petitioner in case FIR No. 67 dated 15.04.2025, under Sections 420/406/120B IPC, registered at PS Chhainsa, Faridabad, Haryana.

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

“DAIRY NO 114-D DATE 26-12-24 ACP TIGAON FBD. No. 546- 5P dated 27-12-24 Adarsh Police Station chansa, District Faridabad Respected ACP Sir, Tigaon, Ballabhgarh, Subject: Executing Agreement to sell in favour of the complainant and after obtaining full and final consideration, fraudulently executing relinquishment deed in favour of his uncle, Tej Singh and for advancing threats to kill. Accused No. 1: Satwati @ Sato, No. 2: Nemwati, No. 3: Suman, No. 4: Jasvati daughter of late Jay Singh, No. 5: Amarwati widow of Jai Singh, No. 6: Bablu, No. 7: Naresh, No. Tej Singh son of

Sarupa, and No. 9: Harish son of Tej Singh, R/o: Jevabad Khedli Tehsil Palwal, District Palwal. Sir, It is requested that complainant Mohan son of late Shri Chatar Singh, is a resident of village Ghudasan, Sub-Tehsil Dayalpur, District Faridabad. In October 2023, Tej Singh, Harish, Subhash, Laxman, and Bablu all residents of Jevabad Khedli, Tehsil Palwal, District Palwal, came to meet me and informed me about land measuring 6 Kanal 9 Marla 2 Sarsai situated in village chhaysa, Sub-Tehsil Mohna, Tehsil Ballabgarh. They told me that the land is up for sale and they showed me the land papers and offered me to purchase the land, after which I accepted the offer for the land measuring 6 Kanal 9 Marla 2 Sarsai situated in village Chhaysa, Sub-Tehsil Mohna, Tehsil Ballabgarh, District Faridabad and I executed an agreement to sell with the above persons. At the time of the execution of the agreement to sell, I paid part of the sale consideration in cash and some in cheque, however, all the above mentioned five accused did not come to the Tehsil for execution of the sale deed on the decided date. On this agreement to sell, accused Harish son of Tej Singh has signed as witness. Thereafter, Nemwati and her husband Naresh came and met the complainant and said that they are in dire need of money and they are ready to sell their share of the land to me. thereafter Nemwati on 12.02.2024 executed a full and final agreement to sell of land measuring 1 Kanal 5 Marla 8 Sarsai after receiving the full sale consideration and said she will execute the sale deed after obtaining NOC from DTP. On 10.09.2024 after obtaining NOC from DTP Nemwati did not get the sale deed executed and she also did not answer my calls. Thereafter, I got to know on date 11/10/2024, that Jaywati and Nemwati, on 18/10/2024, Suman and Amarwati had executed a relinquishment deed in favor of Tej Singh son of Sarupa. These persons purposely and in conspiracy with each other had committed fraud and dishonesty with me and has caused me financial and mental loss. Therefore, it is respectfully prayed that legal action be taken against the accused persons. Thanking you. Enclosures: 1. Copy of

agreement, 2. Full and final agreement copy, 3. Copy of DTP, 4. Relinquishment deed copy, 5. Photocopy of attendance in registrar office are attached.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner submits that, according to the prosecution's version, the petitioner is merely an attesting witness to the agreement to sell executed between the accused persons and the complainant, as well as to the sale deed executed between accused Tej Singh and Suman, wife of Sumer Bhati. The allegation against the petitioner pertains to the alleged fraudulent relinquishment of shares by Nemwati, Jaiwati, and others in favor of accused Tej Singh, who is the petitioner's father, thereby facilitating the execution of the disputed sale deed. He further points out that a civil suit for specific performance filed by the complainant is already pending before the competent court in Faridabad. He further asserts that the petitioner is not a beneficiary in any manner whatsoever performing the role as a marginal witness to the agreement to sell, from which the present dispute arose due to the complainant's alleged non-performance, resulting in the agreement remaining unexecuted. It has been contended on behalf of the petitioner that the petitioner is not a habitual offender as he is not involved in any other case.

On behalf of the State/complainant

On the other hand, learned State counsel has filed a status report by way of an affidavit of Ashok Kumar, HPS, Assistant Commissioner of Police, Tigaon, Faridabad, which is taken on record. He along with Mr. Ram Bhati, Advocate, who has filed Vakalatnama on behalf of the complainant

seek dismissal of the instant petition referring to para No.7 of the said status report highlighting that the petitioner is one who signed as attesting witness to the agreement to sell executed between the accused persons and the complainant, as well as to the sale deed executed between accused Tej Singh and Suman, wife of Sumer Bhati. The allegation against the petitioner pertains to the alleged fraudulent relinquishment of shares by Nemwati, Jaiwati, and others in favor of accused Tej Singh, who is the petitioner's father, thereby facilitating the execution of the disputed sale deed.

4. **Analysis**

Be that as it may, the role assigned to the present petitioner is of signing the alleged document only as a witness and admittedly is not beneficiary to any financial transaction directly or indirectly in the said transaction of property qua which a civil suit is pending and parties would get their dispute adjudicated therein added with the fact that the investigation is stated to be pending which is suffice for this Court to infer that the conclusion of trial shall take considerable time, this Court is of the considering view that detaining the petitioner behind the bars for an indefinite period would serve 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 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

18.06.2025

Poonam Negi

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