



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-8153-2025  
DECIDED ON: 28.03.2025

KARAN SINGH

....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Abhaysher Singh, Advocate for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked for the second time under Section 483 BNSS 2023 for grant of regular bail to the petitioner in case bearing FIR No. 21 dated 25.04.2024, u/s 323, 324, 148, 149 of IPC 1860 [Offence under Section 308 IPC 1860 added later vide GD No. 31 dated 26.04.2024 and 201 of IPC 1860 was added later vide report No. 25 dated 08.06.2024] registered at Police Station Amir Khas, District Fazilka (Annexure P-1).

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

*“Statement of Surinder Pal alias Surinder s/o Hari Chand r/o Chak Kathgarh alias Drogaa ged about 45 years M. NO.9781223314 stated that I am a resident of the above address and agriculturist by profession. On 23.4.2024, I was making straw from the grain of wheat in my field and taking it to my home. It would be 9:45 PM when I sent the trolley full*

*of straw to my house through my labour and I was riding on my motorcycle Paltina was approaching on the road from the field, then suddenly in front of me the motorcycle rider Raj Singh alias Raju s/o Kashmir Singh r/o Dhani Nihanga Wali Dakhli Chak. Katligarh alias Droga came on and raised alarm that caught hold of him, he should not be spared. - Meanwhile pillion rider Karan Singh s/ o Laddu Singh r /o village Amir Khas, came down and gave me sword blow from reverse side which hit on left side of my head above forehead then Raj Singh @ Raju above gave me Kapa blow from reverse side which hit on the right side of my head. The light of my motorcycle was on at that time and I fell down, they inflicted injuries while I was lying on earth, I raised alarm MARTA-MARTA, meanwhile, my uncle Om Prakash s/o Lachhman Das and Ajay Kumar s/o Om Prakash r/o Chak Kathgarh alias Droga who were coming to the village from Jalalabad city happened to hear my voice and came at spot. When they started to release me from the clutches of them, then Jasvir Singh alias Jassi s/o Balwant Singh armed with Kapa, Balwant Singh s/o Harnam Singh armed with Baseball, Manjit Singh s/o Bachan Singh armed with stick, Sona Singh s/o Kashmir Singh armed with Tregal(an agricultural instrument), Kashmir Singh s/o Uttar Singh armed with stick and 5/7 unidentified were holding weapons in their hands came and challenging them to catch them and let them taste the fun of scuffling with our boys. When he came forward to save them, all of them inflicted injuries upon person of my uncle Om Prakash too. All these persons are r/o Dhani Nihanga Wali Dakhli Chak Kathgarh alias Droga near my village. I can recognize these 5/7 unknown persons who were along with them when they appear before me. Then, seeing my family members and the villagers coming, all the people ran away with their weapons. Then Ajay Kumar s/o Om Prakash r/o Chak Kathgarh alias Droga arranged a convenance for both of us and got admitted to Civil Hospital Jalalabad. Where the doctor referred us to Sri Guru Gobind Singh Medical College, Faridkot for advanced treatment, where we*

*are getting treatment. The motive is that the road of our village is often occupied by robbers at night. Because of this, they beat me. Scribed a statement to yourself. Found correct. Action should be taken. Signature in Punjabi Surinder Pal above, Affirmation Statement Signature in English Ajay Kumar s/o Prakash r/o Chak Kathgarh alias Droga, Attestation Sukhdev Singh ASI PS Amir Khas. Dated 25.4.2024.”*

3. **Contentions**

**On behalf of the petitioner**

Learned counsel for the petitioner contends that the petitioner is at parity with co-accused Balwant Singh, who has been granted the concession of anticipatory bail by this Court vide order dated 30.05.2024 (Annexure P-4) passed in CRM-M-28280-2024. He further contends that there is an unexplained delay of 02 days in lodging the instant FIR as the alleged occurrence took place on 23.04.2024 whereas the present FIR was registered on 25.04.2024.

**On behalf of the State**

On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He does not controvert the aforesaid fact and seeks dismissal of the instant petition on the ground that the petitioner gave a sword blow which hit on the left side of forehead of the complainant. He further contends that the petitioner is also involved in another case of NDPS.

4. **Analysis**

Be that as it may, considering the custody period i.e. 04 months and 22 days for which the petitioner has suffered incarceration; the petitioner is at parity with co-accused Balwant Singh, who has been granted the

concession of anticipatory bail by this Court vide order dated 30.05.2024 (Annexure P-4) passed in CRM-M-28280-2024; there is an unexplained delay of 02 days in lodging the instant FIR as the alleged occurrence took place on 23.04.2024 whereas the present FIR was registered on 25.04.2024 in addition to the fact that the injury attributed to the petitioner i.e. head injury is not declared to be dangerous to life.

In addition, investigation is complete, challan stands presented to Court on 31.01.2025, charges are yet to be framed and total 13 prosecution witnesses have been cited, which is suffice for this Court to infer that the conclusion of trial will take long time for which the petitioner 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 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**

**28.03.2025**

*Poonam Negi*

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*