



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

CRM-M No.2763 of 2025

Date of decision: 31st January, 2025

Subhash Chander Dutt

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Puneet Bali, Senior Advocate with
Mr. Sachin Jain, Mr. Anmol Chandan, Mr. Sanjay Khanna,
Mr. Harshit Singla & Mr. Aakash Sharma, Advocates
for the petitioner.

Mr. Deepak Sabharwal, Addl. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The instant petition was filed by the petitioner under Section 483 of the BNSS for grant of regular bail to him in case bearing FIR No.144/2024 dated 02.06.2024 (Annexure P-1) under Sections 81/82 of the Registration Act, 1908 and Sections 120-B, 177, 420, 423, 467, 468, 471 of the IPC registered at Police Station Sector 40, Gurugram.

2. It would be worthwhile to note that the petitioner had in the alternative prayed for interim bail on medical grounds.

3. At the outset, when the case was taken up for hearing today, learned senior counsel appearing for the petitioner submitted that the instant petition had been rendered infructuous due to the unfortunate

demise of the petitioner, who had been receiving treatment at PGIMER Chandigarh and hence the petition be disposed of as such.

4. Consequently, the petition stands disposed of as infructuous.

5. However, before parting with the matter, this Court finds it imperative to take note of the disturbing sequence of events that unfolded in the present case, particularly concerning the assistance rendered by the learned State counsel, who had been specially assigned this case, by the State.

6. On the last date of hearing, this Court was misled by the learned State counsel into believing that a false affidavit had been filed in support of a second bail application under Section 483 of BNSS filed before the trial Court at Gurugram. This second petition, filed after the dismissal of the petitioner's earlier bail application on 08.01.2025, was purportedly filed by an advocate on behalf of the petitioner, despite the pendency of the present petition seeking similar relief before this Court. As a direct consequence of these misleading submissions, this Court was compelled to summon the trial Court records and examine allegations of professional misconduct by an advocate, as well as potential judicial impropriety. This was despite strong objections raised by both the petitioner's counsel and the petitioner's daughter, who was present in the Court. They categorically denied that any second bail application had been filed on the petitioner's behalf or that they had authorized any Lawyer to do so – let alone the advocate, Mr. Prashant Yadav, who had allegedly moved the said affidavit along with his own affidavit. They

further asserted that such a filing was impossible since the petitioner was hospitalized in PGIMER, Chandigarh, at the relevant time. The learned State counsel had then argued that the petitioner, or his family, was engaging in “bench hunting” to secure bail through dubious means, given that the second bail petition had been filed within a span of about three weeks. It was also submitted that in the courts at Gurugram, advocates were routinely failing to comply with the directions issued vide order dated 22.07.2021 by this Court in ‘**Vijay Kumar vs. State of Punjab**’ CRM-M-21526-2021, and that it was, in fact, the lawyers who were filing affidavits instead of petitioners themselves. Additionally, it was brought to the notice of this Court that the same Court which had earlier dismissed the first bail application of the petitioner, had, nevertheless, issued notice to the State on the second application for 29.01.2025.

7. What makes this dereliction even more concerning is the larger context within which it occurred. The petitioner was suffering from various serious medical conditions, and the issue of his continued incarceration was at the heart of these proceedings. Initially, in its reply filed on 21.01.2025, the State annexed the medical report from PGIMS, Rohtak concerning the health status of the petitioner as recorded on 08.01.2025. This report was annexed as Annexure R-2 and is reproduced as under:

“Patient came to Urology OPD on 1.1.25 with above complaints for which patient was admitted in Ward

18 and appropriate treatment was started. Neurology opinion was taken on 1.1.25 in view of bilateral paraparesis and advised MRI Brain with DL Spine, EEG, NCV and above investigations was undertaken and appropriate advise was followed. Cardiology Consult was taken on 4.1.25 in view of Plumonary edema and cardiogenic shock (recovered) and advise was followed. Psychiatry consult in view of insomnia on 7.1.25 was taken and advise followed. ENT opinion in view of difficulty in deglutition was taken on 6.1.25 and treatment was started accordingly and was advised Barium swallow study on 8.1.25 at 9 am.”

8. Subsequently, the daughter of the petitioner, Priya Sharma, filed an application requesting that her father receive treatment at Satyam Superspeciality Hospital, Yamuna Nagar. In response, the Medical Officer of the Jail submitted a report on 10.01.2025 regarding the health of the petitioner, (Annexure R-4); the relevant extract of the said report is reproduced as under:

“He was referred to Civil Hospital, Gurugram on 04.12.2024 and then on 11.12.2024 to Heart Center and Medicine OPD at Civil Hospital, Gurugram for post operate follow-up, for which prescribed treatment by the specialist was provided at Jail Hospital, Gurugram. On dated 12.12.2024 the said accused was referred to Heart Center at PGIMS, Rohtak for routine follow-up and specialist's opinion at a higher institution where he was admitted on the same day, i.e. 12.12.2024 till 27.12.2024. At PGIMS, Rohtak he was diagnosed with IHD | CAD | Post PCI | HI | Hypothyroidism with Diabetic Mellitus

Type-2 with Grade-II BPH with Pneumonitis with DN with LRTI with Cardiologic Shock (recovered).

He was kept under observation at Jail Hospital, Gurugram from 27.12.2024 and the treatment prescribed by the specialists at PGIMS, Rohtak was provided to the standing, insomnia, slurring speech, hallucinating, have urinary catheter, blister over glance of penis and was having difficulty in recognising people around him. He was referred to department of urology at PGIMS, Rohtak on 31.12.2024 and again on 01.01.2025 for regular follow-up. As recommended by the specialists at PGIMS Rohtak, the said patient was admitted at GIMS Rohtak on 01.01.2025 and was discharged on 08.01.2025. As per discharge summary, the patient was diagnosed with IHD | CAD | Post PCI | Hodgkin's Lymphoma | Post CT | Hyperthyroidism | T2DM | Pneumonitis (recovered) | grade II BPH with UTI on 01.01.2024. The condition as per discharge summary was conscious, oriented and stable.

Since discharge of the patient from PGIMS, Rohtak, i.e. since 08.01.2025, he is admitted at Jail Hospital, Gurugram. The patient is having difficulty in sitting and standing, insomnia, hallucinating/self-talk, have urinary catheter, healed blister over glance of penis, has no conscious over bowel control, not able to take his meals on his own and also unable to maintain self-hygiene. As on date his health condition is "Poor".

This office received an application from Priya Sharma, daughter of the said patient, requesting treatment from a private institution, on their own expense along with a court order, dated 08.01.2025, from the Ld. Court of Sh.

Sunil Kumar Dewan, ASJ-Gurugram. In compliance of the Rule no. 523 of Haryana Prison rules, 2022 and as highlighted in the court order, "the Prisoner in special cases, may be allowed to get treatment from an outside specialist at their own expense", this patient may be recommended to receive the treatment from a private institution, following the procedure given under Section 523 of Haryana Prisons Rules, 2022."

9. Following this, a Medical Board was constituted at Civil Hospital, Gurugram which conducted an examination of the petitioner and submitted its report on 17.01.2025 (Annexure R-6), with the relevant extract reproduced as under:

"As per the record, patient is a known case of Coronary Artery Disease post - Percutaneous Angioplasty, Hodgkin's Lymphoma, hyperthyroidism, type II diabetes mellitus, grade I BPH. Patient was having difficulty in sitting, standing, insomnia, slurring speech, hallucinations, blisters over glans of penis and was having difficulty in recognising people. For this patient was referred to PGIMS, Rohtak on dated 31.12.2024 before that patient was previously admitted at PGIMS, Rohtak from 12.12.2024 to 27.12.2024 in Heart Centre and the above diagnosis is as per PGIMS, Rohtak discharge card. He was again admitted on 01.01.2025 to 08.01.2025 in Urology Department for the management of UTI and other comorbid conditions. On discharge he was advised to follow up in Neurology / ENT / Psychiatric / Medicine / Urology / General Surgery / Cardiology / Endocrinology OPD. As per the report of Medical Officer, Jail Hospital,

patient's health condition is poor. As per discharge card of PGIMS, Rohtak he needs a multidisciplinary team management, which is not available at Civil Hospital, Gurugram. The board is of the opinion considering it to be a special case, patient may be allowed treatment in a private hospital as per Jail rule.”

10. Thereafter, on 21.01.2025, at the request of the family of the petitioner, the petitioner was referred to Artemis Hospital, Gurugram with the understanding that the expenses for his hospitalization would be borne by the family.

11. However, on 24.01.2025, during the course of hearing before this Court, the learned State counsel informed this Court that the medical condition of the petitioner was stable and he did not require further hospitalization. In support, learned State counsel placed on record the report of Dr. Sumit Singh of Artemis Hospital, Gurugram, which was in the following terms:

“Mr Subhash Dutt, 84 year old male presented with a past history of a fall followed by chief complaint of both lower legs weakness for last 30 days. As per the daughters of the patient, the patient had coronary angiography and angioplasty in the past (Year 1998). He had Hodkin's lymphoma in the past (1994 Post chemotherapy. In remission). He has hypothyroidism which is under control on medication. He was also complaining of some urinary urgency. In the emergency the patient was seen by an orthopedics doctor and then by neurology doctors. Though admission was not required, but to rule out any

serious neurological problem the patient was admitted from the emergency. On examination the patient was conscious oriented and was moving all four limbs. His power was normal in all the four limbs, and he did not have any signs of significant major neurological condition. The MRI of the brain was normal for the age of the patient and the MRI of the whole spine was also not showing any major abnormality which could cause the weakness of the lower limbs. We did the nerve conduction study of both the lower limbs and the upper limbs which were completely normal. The symptoms of the patient and the investigations done did not have any correlation. As the patient has no focal neurological deficits, no active neurological intervention was required and from the neurological perspective he did not require any further hospitalization. The same thing was duly communicated to the daughter of the patient in the morning rounds on 23rd January 2025. At that time the family communicated that the patient has some prostate related issues and some other problems as well. It was again communicated to the daughter of the patient that since these were not the main complaints of the patient at the time of admission, were not of a serious nature, they could be managed easily on the opd. basis. As per the hospital policy one attendant is allowed to stay with the patient which was carried out in this case. If required another attendant can be allowed to see the patient during the visiting hours as per hospital norms. No formal application has been received by the treating team/hospital authorities on behalf of the relatives of the patient and/OR any other person to expedite the discharge of the patient.”

12. Conflicting medical reports regarding the medical condition of the petitioner were, thus, placed before this Court.

13. Learned senior counsel for the petitioner, in light of the report received from Dr. Sumit Singh of Artemis Hospital, Gurugram, vehemently argued before this Court, on 24.01.2025, that the medical condition of the petitioner was far from stable, as was evident from the medical reports concerning the petitioner given by the doctors at Civil Hospital, Gurugram and PGIMS Rohtak. It was contended that it was only in the background of these reports, which clearly indicated that the condition of the petitioner was not good, he was hospitalized at Artemis Hospital, Gurugram. It was also asserted by the learned senior counsel for the petitioner that upon admission, his condition at Artemis Hospital, Gurugram was also found to be unsatisfactory. Therefore, it was highly improbable that within a span of few days, Artemis Hospital, Gurugram concluded that his condition had stabilized and that he could be treated as an out-patient.

14. On the other hand, learned State counsel on the said date maintained that the petitioner was completely stable and, therefore, not entitled to bail, let alone interim bail. It was further asserted that the petitioner's family was pressing for his continuous hospitalization solely for insurance-related reasons and that the request for further hospitalization was merely a pretext.

15. These submissions were vehemently disputed by the learned senior counsel for the petitioner, who also challenged the report submitted by Artemis Hospital, Gurugram as per which the condition of the petitioner was stable and that he could be treated on an out-patient basis. Instead, learned senior counsel for the petitioner maintained that the condition of the petitioner remained unsatisfactory and did not align with the medical evaluation provided by the doctors at Artemis Hospital, Gurugram. On this basis, it was argued that the family was seeking his transfer to an alternative medical facility.

16. In the light of the conflicting medical opinions presented before this Court regarding health of the petitioner, learned senior counsel for the petitioner was given two options: to transfer the petitioner either to All India Institute of Medical Sciences (AIIMS) Delhi or Post Graduate Institute of Medical Education and Research (PGIMER) Chandigarh. The learned senior counsel for the petitioner, on instructions, opted for PGIMER Chandigarh where the petitioner was subsequently hospitalized pursuant to the orders of this Court dated 24.01.2025. Additionally, a request was also made to the Director of PGIMER Chandigarh to have the medical condition of the petitioner evaluated by a Board of Doctors.

17. Following this, the Medical Board constituted by the PGIMER Chandigarh confirmed that the petitioner was indeed suffering from certain medical ailments and sought additional time to evaluate his condition before submitting a detailed report. However, unfortunately,

before the report could be submitted the petitioner expired. The relevant extract of the report received from the PGIMER Chandigarh on 28.01.2025 is reproduced below:

*“In this regard, the patient Subhash Chander Dutta (CR No.202501259784) came to PGIMER Chandigarh in emergency on 25.01.2025 at 08:45 PM. The patient had been evaluated by a team of doctors from Internal Medicine, Neurology and Psychiatry in the emergency department. As per the history given by the patient's attendants and the previous records, the patient had coronary artery disease (CAD) in the past for which angioplasty was done, he also had Hodgkin Lymphoma in the year 2009-10 which was successfully treated with Chemotherapy. **At present the patient has fever with altered sensorium, aremia, abnormal ECG, kidney dysfunction and inability to walk which requires further detailed evaluation.***

Impression: As per the assessment and the complaints given by the patient and the informant, the medical board is of the opinion that the patient needs further detailed evaluation. The patient also requires various investigations as advised by the medical board members and treating doctors are PGI. The final opinion regarding the medical condition of the patient will be given after due detailed examination and investigations.”

18. In view of the above report of PGIMER Chandigarh, a prayer was yet again made by the learned senior counsel for the petitioner to extend the concession of interim bail. However, in view of

the following startling submissions made by the learned State counsel, the case was adjourned to 31.01.2025:

“Learned State counsel at the outset has brought to the notice of this Court that while the petitioner was being transported from Gurugram to Chandigarh in compliance of order dated 24.01.2025, on 27.01.2025, a second application for regular bail had been filed before the trial Court at Gurugram; an affidavit had been filed by Mr.Prashant Yadav, Advocate, wherein totally false averments had been made in paragraph 3 of the affidavit that no other bail application had been filed or pending in any Court of law. Learned counsel submits that it is a matter of record that the petitioner has already approached this Court by way of the instant petition i.e. CRM-M-2763-2025. Still further, it has been submitted by the learned counsel that the trial Court had, on 27.01.2025, issued notice to the State for 29.01.2025 for reply and arguments, even though the affidavit, which was filed was not as per the directions issued by this Court in Vijay Kumar Versus State of Punjab. It has been submitted that the Courts at Gurugram have been accepting petitions along with affidavits of the counsel unlike what has been happening in other Courts in Punjab, Haryana and U.T. Chandigarh

Learned senior counsel for the petitioner has expressed his total shock qua the filing of a second bail petition during the pendency of the instant petition at the trial Court at Gurugram.

The daughter of the petitioner, who is present in person, has also categorically stated that no such vakalatnama has been given to any Advocate much less Mr.Prashant Yadav, who has purportedly filed a second

petition seeking regular bail. It has also been submitted that no instructions had been passed on to Mr. Prashant Yadav, Advocate, to file any petition under Section 439 of the Cr.P.C. before any Court of law much less Gurugram.

Adjourned to 31.01.2025.”

19. Learned senior counsel for the petitioner has vehemently contended that the State had intentionally raised the issue of a second bail application being filed by the petitioner so as to create hurdles in the way of the petitioner from getting interim bail; further, not only had the name of an Advocate unjustifiably maligned before this Court but a crucial letter issued by the DLSA on 23.01.2025 – wherein Advocate Mr. Prashant Yadav had been advised by DLSA to file the bail application of the petitioner, was deliberately withheld from this Court. Despite being an integral part of the second bail application filed before the learned trial Court at Gurugram, this letter was not disclosed, even though it was annexed as Annexure R-4 to the said bail application. Learned senior counsel for the petitioner contended that rather than candidly placing this fact before the Court, the learned State counsel proceeded to cast aspersions upon both the Advocate and the learned trial Court. The learned senior counsel drew the attention of this Court to the relevant extract of the letter of DLSA dated 23.01.2025, which is reproduced hereunder:

“Furthermore, as per the directions received from the learned Member Secretary, HSLSA, vide letter No.767-88(LO/2025)/MS/HSLSA dated 16.01.2025, the District

Unit has been directed to advise the Lawyer represented/representing the UTP Subhash Chander Dutta s/o Sakshi Somnath to file an application for release of him under the aforementioned NALSA special campaign/policy.

Further, any assistance required in filing the appropriate application or petition before the concerned Courts or Authorities, you are encouraged to approach the District Legal Services Authority, Gurugram, for necessary support. We look forward to your prompt action in this matter.

*Sd/- CJM-cum-Secretary,
DLSA, Gurugram”*

20. This omission, it was argued, had led to unwarranted allegations against Mr. Prashant Yadav, Advocate and had misled the Court into forming an adverse impression.

21. What is even more troubling is, that when confronted, the learned State counsel belatedly acknowledged and admitted failure, though sought to justify the same as an “*inadvertent failure*” to examine a crucial annexure for which he tendered apology. This annexure was part of the second bail application which was purportedly filed before the trial Court on behalf of the petitioner on 27.01.2025, while the instant petition was still pending. Reference was made by learned State counsel, in extenso, to the second bail application but not to the crucial annexure in question. This explanation, however, is both unconvincing and unacceptable, particularly because the misrepresentation was not voluntarily corrected but was admitted only after the falsity of the

submissions was exposed through the intervention of the learned senior counsel for the petitioner and on perusal by this Court of the summoned records. Such conduct goes beyond mere oversight; it constitutes a grave dereliction of duty and a breach of prosecutorial responsibility.

22. At this juncture, it would be necessary to emphasize that the role of a public prosecutor or State counsel is not that of an adversarial party seeking to obstruct relief to an accused at any cost. A public prosecutor/ State counsel is, first and foremost, an officer of the Court, duty bound to ensure the fair and just administration of justice. It is incumbent upon him/her to present facts with absolute accuracy, without suppression, distortion or misrepresentation. The Hon'ble Supreme Court has repeatedly emphasized that a public prosecutor must uphold the highest standards of integrity and objectivity, ensuring that justice is not compromised due to negligence, misrepresentation, or concealment of facts.

23. This Court therefore finds it necessary to reiterate certain foundational principles governing the conduct of public prosecutors and State counsel:

- (i) a public prosecutor is an officer of the Court, not a mouthpiece for the police or the State. Their duty is to ensure that justice is served, irrespective of the verdict of the Court.

- (ii) Suppressing material facts, misrepresenting or misleading the Court in any manner constitutes a serious violation of prosecutorial ethics and an affront to judicial integrity.
- (iii) The State is also obligated to ensure that only competent and ethical professionals are entrusted with the responsibility of representing the State before the Court. The legal system cannot afford the luxury of laxity or misinformation in matters where liberty and life are at stake.

24. In the present case, the learned State counsel regrettably failed in this fundamental duty. The misleading representation made before this Court not only cast unwarranted aspersions on an Advocate but also raised unfounded concerns about the functioning of the trial Court. Such erroneous assertions created unnecessary suspicion and sensationalism, thereby undermining the dignity and credibility of the judicial process.

25. Let a copy of this order be sent to the learned Advocate General, Haryana for information.

26. The trial Court record be sent back through the Registrar (Vigilance).

(MANJARI NEHRU KAUL)
JUDGE

January 31, 2025

rps

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