

2025:PHHC:094193



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

CRM M-26544-2025

Date of Decision:24.07.2025

Gajanand ...Petitioner
Versus
State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Aditya Sanghi, Advocate, for the petitioner.

Mr. Rajiv Sidhu, Sr. DAG, Haryana.

N.S.SHEKHAWAT, J.

1. The petitioner has filed the instant petition under Section 483 of the B.N.S.S., 2023 with a prayer to grant regular bail in case FIR No.299 dated 13.09.2022 registered under Sections 302, 323, 325 and 34 IPC at Police Station Sadar Narnaul, District Mahendergarh.

2. The FIR in the present case has been registered on the basis of the statement made by Mukesh and the same has been reproduced below:-

“To SHO Sahab, Police Station Sadar Narnaul. It is requested that I Mukesh alias Monu, son of of Ramsingh, caste Ahir, resident Nagtihad, District Mahendargarh. We are three brothers, eldest was Anil, younger than him and younger than me was Pramod. Today, on the night of

12/13.9.2022, my brother Pramod and his friend Mahesh, son of Raghubir Singh, resident of Nang Tihari, both together at around 9.30 pm, had gone to the house of Gajanand, son of Narayan Singh, resident of Ahir, resident of Nang Tihars to take back his Rs. 30000/- given by him. When Gajanand asked to return money, he refused to give the money and on this issue, they got into an argument with each other. Gajanand picked up a stick from his house and hit my brother on the head and Jaiprakash, his brother, picked up a Khoriya and hit my brother on the head. Gajanand's son Abhishek and Jaiprakash's son Sonu slapped and punched them. When Mahesh tried to rescue them, then Jaiprakash's wife Kirosta and Gajanand's wife, whose name we later came to know is Krishna gave slaps and fist blows to Mahesh and Gajanand and Jaiprakash also hit Mahesh. On hearing the noise of the fight, Satender son of Shadiram, Ahir caste, resident of Nagtihadi reached at the spot and after some time, I also reached the spot. When we reached, Gajanand said that we have given them injury, you can do whatever you want. Then I got sit my brother on my bike and Mahesh was got sit by Jitender, son of Sadharam, son of Nagtihari on his bike and brought them to the government hospital, Narnaul. On the way, my brother had told me everything about the incident. But his treatment started in the hospital and after some time he died. Mahesh was also seriously injured and the doctor referred him to Higher Center for treatment, thereafter, we gave for information at No. 112 and after the information at no. 112 you came, kindly strict action should be taken against Gajanand etc. Applicant Mukesh Mobile no. 8307153432, Aadhar No. 668848124366 .”

3. Learned counsel for the petitioner contends that the FIR in the present case was recorded after a long and unexplained delay of 1 day and the said time was utilized by the complainant in calculations and due deliberations. Even, the offence was allegedly committed by the petitioner as Parmod, since deceased, was having a financial dispute with the brother of the petitioner. Further, it is an admitted case that at the time of incident, the deceased and witness had allegedly come to the house of the petitioner and the occurrence had taken place at his house. Further, the police also investigated the offence in the present case and the major part of the allegations was found to be false. Consequently, Kiroosatha, Krishan, Abhishek and Yogesh were found innocent during the investigation and the petitioner has been falsely involved without any incriminating evidence against him.

4. Learned counsel further contends that in fact the petitioner was arrested in the present case on 13.09.2022 and out of 22 prosecution witnesses, only 03 witnesses had been examined so far. Consequently, the trial is at the nascent stage and the trial Court may take sufficient time to conclude the trial in the present case.

5. On the other hand, learned State counsel has vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that the petitioner has been specifically named in the present case as one of the main accused and a specific attribution is there. Thus, the petition deserves to be dismissed by this Court.

6. I have heard learned counsel for the parties and perused the record.

7. It has been held by the Hon'ble Supreme Court of India in the matter of Sanjay Chandra Vs. CBI, 2011(4) R.C.R. (Criminal) 898 and 2011 AIR (SCW) 6838 as follows:-

“25. Coming back to the facts of the present case, both the Courts have refused the request for grant of bail on two grounds :-

The primary ground is that offence alleged against the accused persons is very serious involving deep rooted planning in which, huge financial loss is caused to the State exchequer ; the secondary ground is that the possibility of the accused persons tempering with the witnesses. In the present case, the charge is that of cheating and dishonestly inducing delivery of property, forgery for the purpose of cheating using as genuine a forged document. The punishment of the offence is punishment for a term which may extend to seven years. It is, no doubt, true that the nature of the charge may be relevant, but at the same time, the punishment to which the party may be liable, if convicted, also bears upon the issue. Therefore, in determining whether to grant bail, both the grant or refusal to grant bail lies within the discretion of the Court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of

*keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the Court, whether before or after conviction, to assure that he will submit to the jurisdiction of the Court and be in attendance thereon whenever his presence is required. This Court in **Gurcharan Singh and Ors. v. State, AIR 1978 Supreme Court 179** **Gurcharan Singh and Ors. v. State, AIR 1978 Supreme Court 179** observed that two paramount considerations, while considering petition for grant of bail in non bailable offence, apart from the seriousness of the offence, are the likelihood of the accused fleeing from justice and his tampering with the prosecution witnesses. Both of them relate to ensure of the fair trial of the case. Though, this aspect is dealt by the High Court in its impugned order, in our view, the same is not convincing.*

26. *When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated. Every person, detained or arrested, is entitled to speedy trial, the question is : whether the same is possible in the present case. There are seventeen accused persons. Statement of the witnesses runs to several hundred pages and the documents on which reliance is placed by the prosecution, is voluminous. The trial may take considerable time and it looks to us that the appellants, who are in jail, have to remain in jail longer than the period of detention, had they been convicted. It is not in the interest of justice that accused should be in jail for an indefinite period. No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State exchequer, that, by itself,*

*should not deter us from enlarging the appellants on bail when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with evidence. We do not see any good reason to detain the accused in custody, that too, after the completion of the investigation and filing of the charge-sheet. This Court, in the case of **State of Kerala v. Raneef, 2011(1) RCR (Criminal) 381 : 2011(1) Recent Apex Judgments (R.A.J.) 116 : (2011)1 SCC 784**, has stated : **State of Kerala v. Raneef, 2011(1) RCR (Criminal) 381 : 2011(1) Recent Apex Judgments (R.A.J.) 116 : (2011)1 SCC 784**,*

*"15. In deciding bail applications an important factor which should certainly be taken into consideration by the court is the delay in concluding the trial. Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail. In the present case the respondent has already spent 66 days in custody (as stated in Para 2 of his counter-affidavit), and we see no reason why he should be denied bail. A doctor incarcerated for a long period may end up like Dr. Manette in Charles Dicken's novel *A Tale of Two Cities*, who forgot his profession and even his name in the Bastille".*

"14. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial

by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for the purpose of giving him a taste of imprisonment as a lesson.

15. *In the instant case, as we have already noticed that the "pointing finger of accusation" against the*

*appellants is 'the seriousness of the charge'. The offences alleged are economic offences which has resulted in loss to the State exchequer. Though, they contend that there is possibility of the appellants tampering witnesses, they have not placed any material in support of the allegation. In our view, seriousness of the charge is, no doubt, one of the relevant considerations while considering bail applications but that is not the only test or the factor : The other factor that also requires to be taken note of is the punishment that could be imposed after trial and conviction, both under the Indian Penal Code and Prevention of Corruption Act. Otherwise, if the former is the only test, we would not be balancing the Constitutional Rights but rather "recalibration of the scales of justice." The provisions of Criminal Procedure Code confer discretionary jurisdiction on Criminal Courts to grant bail to accused pending trial or in appeal against convictions, since the jurisdiction is discretionary, it has to be exercised with great care and caution by balancing valuable right of liberty of an individual and the interest of the society in general. In our view, the reasoning adopted by the learned District Judge, which is affirmed by the High Court, in our opinion, a denial of the whole basis of our system of law and normal rule of bail system. It transcends respect for the requirement that a man shall be considered innocent until he is found guilty. If such power is recognized, then it may lead to chaotic situation and would jeopardise the personal liberty of an individual. This Court, in **Kalyan Chandra Sarkar v. Rajesh Ranjan**, 2005(1) RCR (Criminal) 703 : 2005(1) Apex Criminal 307 : (2005)2 SCC 42, observed that "under the criminal laws of this*

country, a person accused of offences which are non-bailable, is liable to be detained in custody during the pendency of trial unless he is enlarged on bail in accordance with law. Such detention cannot be questioned as being violative of Article 21 of the Constitution, since the same is authorised by law. But even persons accused of non-bailable offences are entitled to bail if the Court concerned comes to the conclusion that the prosecution has failed to establish a prima facie case against him and/or if the Court is satisfied by reasons to be recorded that in spite of the existence of prima facie case, there is need to release such accused on bail, where fact situations require it to do so."

8. The Hon'ble Supreme Court discussed the principles, which the Court must bear in mind while granting or declining the bail, in the matter of ***Prahlad Singh Bhati v. NCT, Delhi, 2001(2) RCR (Criminal) 377 : (2001)4 SCC 280, (2001)4 SCC 280***, as under:

"The jurisdiction to grant bail has to be exercised on the basis of well-settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of the evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered

with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy it (sic itself) as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."

9. In ***State of U.P. v. Amarmani Tripathi, (2005)8 SCC 21***, the Hon'ble Supreme Court has held as under:

*"18. It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail [see ***Prahlad Singh Bhati v. NCT, Delhi and Gurcharan Singh v. State (Delhi Admn.)***]. While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert*

*justice or tamper with the evidence, then bail will be refused. We may also refer to the following principles relating to grant or refusal of bail stated in **Kalyan Chandra Sarkar v. Rajesh Ranjan** : (SCC pp. 535-36, para 11)*

"11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are :

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

*(c) Prima facie satisfaction of the court in support of the charge. (See **Ram Govind Upadhyay v. Sudarshan Singh Sudarshan Singh and Puran v. Rambilas**).*

22. While a detailed examination of the evidence is to be avoided while considering the question of bail, to ensure that there is no prejudging and no prejudice, a brief examination to be satisfied about the existence or otherwise of a prima facie case is necessary."

10. In the present case also, this Court has noticed that the allegations levelled against the petitioner point towards the “seriousness of charge”. No doubt, “seriousness of charge” is one of the relevant considerations while granting the bail but it is not only the test or the factor. Rather the Court has to take note of other factors also, which must be borne in mind while exercising the jurisdiction under Section 483 of B.N.S.S., 2023. In fact, the petitioner in the present case continues to be in custody for the last more than 01 year and 10 months. Even, there is no material to indicate that the petitioner is in a position to influence the witnesses of the prosecution or may abscond from the process of law.

11. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

24.07.2025

amit rana

(N.S.SHEKHAWAT)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No