

released on bail in CR No.34 of 2024 registered with Naya Nagar Police Station, Mira Road, Mumbai, on furnishing a PR bond in the sum of Rs.30,000/-, each, and one or two sureties in the like amount each, to the satisfaction of the trial Court. (iii) The applicants shall mark their presence at Naya Nagar Police Station, Mira Road, on the first Monday of every alternate month between 11 am to 1 pm for a period of three years or till the conclusion of the trial whichever is earlier. (iv) The applicants shall not tamper with the prosecution evidence. The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer. (v) On being released on bail, the applicant shall furnish their contact number and residential address to the investigating officer and shall keep him updated, in case there is any change. (vi) The applicants shall regularly attend the proceedings before the jurisdictional Court. (vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicants and coaccused and the trial Court shall not be influenced by any of the observations made hereinabove. Applications disposed.

**Result :-** Applications allowed..

**ABC 2025(I) 28P&H**  
**ACQUITTAL & BAIL CASES**  
**HIGH COURT OF PUNJAB & HARYANA**  
*(Sandeep Moudgil, J.)*  
 CRM-M-60279-2024

Decided On: 09 December 2024

**LAKHVIR SINGH**

**- Petitioner(s)**

*Versus*

**STATE OF PUNJAB**

**- Respondent(s)**

***Law Covered:- (A) Constitution of India - Article 21 - Right to Speedy Trial - Detention Beyond Reasonable Period and Delay in Trial - Held, pre-conviction detention should not be prolonged unnecessarily- The petitioner, having been incarcerated for over seven months- is not a habitual offender- the trial is expected to take an extended period due to a delay in lodging the FIR and the pending framing of charges- Bail granted. (Paras 4, 5)***

***(B) Criminal Procedure Code - Section 439 (Bharatiya***

a *Nagarik Suraksha Sanhita, 2023 (BNSS) - Section 483) - Bail - Conditions for Granting Regular Bail - No Evidence of Dangerous Injury - Long Trial Period - The expected delay in the trial process - the absence of other cases against the petitioner indicate that further detention would violate the petitioner's right to a reasonable, fair, and just procedure. (Paras 4, 5)*

b *(C) Indian Penal Code - Section 307 (Bharatiya Nyaya Sanhita, 2023 (BNS) - Section 109) - Attempt to Murder - No Evidence of Dangerous Injury - Prosecution's Failure to Establish Case - Held, the prosecution could not substantiate the claim of dangerous injury that would justify the charge of attempt to murder-*  
 c *absence of life-threatening injuries weakens the case against the petitioner, influencing the decision to grant bail. (Para 4)*

d *(D) Constitution of India - Article 21 - Right to Fair Trial - Pre-Trial Detention & Right to Speedy Trial - Held, pre-trial detention should be minimized- especially where the nature of the accusation does not justify prolonged incarceration. (Para 4)*

e *Facts :-A man and his companion went to their fields and found others constructing a boundary in their land. Upon questioning, a confrontation ensued, during which the individuals attacked the man with bamboo sticks and fists, injuring him. His companion tried to intervene but was also hurt. Others arrived and shouted at the attackers, causing them to flee on motorcycles. The dispute was over the boundary in the fields, leading to the altercation. The man received initial treatment at a hospital and was later referred to a neuro hospital. His companion sustained more serious injuries and is still recovering.*

f *The petitioner had been incarcerated for 7 months and 16 days and had not been a habitual offender. The FIR had been lodged with a delay, and the investigation had been completed, but charges had not yet been framed. The trial was expected to take a long time, with 21 prosecution witnesses cited. The prosecution had failed to prove that the injuries had been life-*  
 g *threatening. The court had highlighted the right to a speedy trial under Article 21 of the Constitution and the need to minimize the under-trial period.*

h *Law of Relief:- Regular bail granted, considering the prolonged pre-trial detention, lack of dangerous injury, and right to a speedy trial under Article 21 of the Constitution.*

*Counsel :- For Appellant(s): Mr.Luvinder Sofat, Adv.*

*For Respondent(s): Mr. Jasjit Singh Rattu, DAG,  
Punjab*

*Cases Referred:-*

*Dataram versus State of Uttar Pradesh and another", 2018(2) R.C.R.*

(Criminal) 131.

*Nikesh Tara chand Shah v. Union of India*, 2017 (13) SCALE 609.

*Gurbaksh Singh Sibbia v. State of Punjab*, (1980) 2 SCC 565.

*Nagendra v. King-Emperor*, AIR 1924 Calcutta 476.

*Emperor v. Hutchinson*, AIR 1931 Allahabad 356.

*Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna*, (1980) 1 SCC 98.

### JUDGMENT

**Sandeep Moudgil, J.:-** 1. Relief sought The jurisdiction of this Court has been invoked for the third time under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in FIR No.85, dated 06.07.2018, under Sections 308, 325, 323, 201, 34 IPC, registered at Police Station Sadar Bathinda, District Bathinda.

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

"Statement of Gurpreet Singh son of Jagtar Singh caste Jatt Sikh r/o Buladwala, District Bathinda aged 22 years (9781000929), states that I am resident of above noted address and I am doing the work of agriculture, I alongwith Satpal Singh son of Sukhdev Singh r/o Buladewala, had gone our tractor 2511 on the back side of the water works at Kaluwala fields, Arniawali Patti, where in the fields Balwinder Singh son of Atma Singh armed with soti, Lakhvir Singh son of Balwinder Singh armed with Kappa, Navjot Singh son of Lakhvir Singh armed with soti of bamboo in which there was the pan spade were standing in the fields, who had made a watt in our fields about 6 marlas ahead and I told to Balwinder Singh etc., that how have you put the Watt in our fields, then on saying this, Navjot Singh above said gave the blow of the soti of the kasia carried in his hand, which hit on the head then Lakhvir Singh gave a fist blow in my right eye which hit below the eye and Balwinder Singh gave the blow of his dastisoti and when I raised my arm to save myself then the soti hit on the right hand palm and Balwinder Singh gave one more blow of soti which hit on the left hand palm and I raised a raula of marta-marta, then Sukhpal son of Sukhdev Singh r/o Buladewala, came in front in order to save me and Balwinder Singh, Lakhvir. Singh and Navjot Singh gave injuries to Satpal Singh then Gurmeet Singh son of Basant Singh and Jagtar Singh son of Sukhdev Singh resident of Buladewala, gave a Lalakara and saved us, then all three persons went alongwith their weapons on their motorcycles and fled. This fight had taken place on 26.06.2018 at about 7.30 pm, the motive is that Balwinder Singh etc, have forcibly put a Watt in our fields and we have asked

a why they have put the watt in our fields. Because of this in  
connivance with each other gave injuries to me and Sukhpal Singh,  
then my father Jagtar Singh made the arrangement of the vehicle and  
got me admitted in the hospital, where doctors gave me initial  
treatment and referred me then I was taken to Neuro Hospital,  
b Ramdev Road, Bathinda, where doctor sahib are doing my treatment  
and Sukhpal Singh had more injuries is still not well, I have got my  
statement recorded, heard it, it is correct."

3. Contentions On behalf of the petitioner Learned counsel for  
the petitioner contends that there is a delay of 10 days in lodging the  
instant FIR as the occurrence took place on 26.06.2018 and the instant  
c FIR was registered on 06.07.2018. It has been further contended that  
as per the MLR, the complainant has received 4 injuries and only  
injury No.4 has been attributed to the present petitioner, which was  
caused by a fist blow, which does not attract the ingredients  
d of Section 308 IPC. It has been contended on behalf of the petitioner.  
On behalf of the State/complainant On the other hand, learned State  
counsel has produced the custody certificate of the petitioner today in  
Court, which is taken on record. Mr. Jasjit Singh Rattu, DAG, Punjab  
assisted by Mr. Virender Kumar, Advocate, who has filed  
e Memorandum of Appearance on behalf of the complainant, seeks  
dismissal of the instant petition on the ground that the present  
petitioner along with other co-accused persons had inflicted injuries  
to the complainant with their respective weapons.

4. Analysis Be that as it may, considering the custody period  
f i.e. 07 months and 16 days for which the petitioner has suffered  
incarceration; the petitioner is not involved in any other case,  
meaning thereby, he is not a habitual offender as is evident from  
custody certificate; there is a delay of 10 days in lodging the instant  
FIR as the occurrence took place on 26.06.2018 and the instant FIR was  
g registered on 06.07.2018 in addition to the fact that investigation is  
complete, challan stands presented to Court on 15.06.2024, charges  
are yet to be framed and total 21 prosecution witnesses are cited,  
which is suffice for this Court to infer that the conclusion of trial will  
h take long time for which the petitioner cannot be detained behind the  
bars for an indefinite period.

Apart from above, the prosecution could not establish from  
the medico legal report, any injury which could be termed to be  
dangerous to life as there is a dispute qua the sole attribution to the  
present petitioner.

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

a 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.

b 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

c 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.

f 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."

g  
h 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 Khatoun 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. a

5. DECISION: b

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

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. c

**Result :-** Petition allowed. d

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**ABC 2025(I) 34P&H**  
**ACQUITTAL & BAIL CASES**  
**HIGH COURT OF PUNJAB & HARYANA**  
*(Sandeep Moudgil, J.)*  
 Criminal Appeal No(s). CRM-M-59374-2024  
 Decided on: 17 December 2024 e

*Kuldeep Singh Alias Kodda* - Appellant(s)

*Versus*

*State Of Punjab* - Respondent(s) f

**Law Covered:-**(A) *Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 483 - Regular Bail - Right to Speedy Trial - Prolonged Custody - Bail Granted - The petitioner has been in custody for over 1 year, with a trial expected to take time due to incomplete examination of prosecution witnesses - Co-accused have already been granted bail - Held, continued detention would violate the right to speedy trial under Article 21 of the Constitution - Bail granted. (Para 4, 5) g*

(B) *Constitution of India - Article 21 - Right to Speedy Trial - Pre-conviction Detention - Impact on Fundamental Rights - Held, pre-conviction detention should be as short as possible, particularly where the trial is likely to be lengthy - Detention for an indefinite period without trial violates the constitutional right to live with dignity. (Para 4) h*

(C) *Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 483 - Regular Bail - No Link to Other Pending Cases - Held, the*