

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****Cr. MP (M) No. 2225 of 2025****Reserved on: 10.10.2025****Decided on : 16.10.2025**

Naresh Kumar

....Petitioner

Versus

State of Himachal Pradesh

...Respondent

*Coram:***The Hon'ble Mr. Justice Sushil Kukreja, Judge.**Whether approved for reporting?¹

For the petitioner : Mr. K.S. Gill, Advocate.For the respondent : Mr. Manoj Chauhan, Additional
Advocate General.

Sushil Kukreja, Judge

By way of instant petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (for short "BNSS"), the petitioner is seeking bail in case FIR No. 45/2023, dated 15.08.2023, under Sections 302, 201 & 34 of the Indian Penal Code (hereinafter referred to as "IPC") registered at Police Station Sangrah, District Sirmaur, H.P.

2. The prosecution story, in brief, is that on 14.08.2023 a telephonic information was received at Police Post Haripur Dhar that a person was found dead in suspicious

¹ Whether reporters of Local Papers may be allowed to see the judgment?



circumstances. Accordingly, the police party left for Haripurdhar and found the corpse of deceased Rajender alias Pappu at *Kharoti Khala*. The police recorded the statement of Rajender Kumar under Section 154 Cr. P.C., who stated that today at about 8:40 p.m. his sister telephonically inquired from him that her husband Rajender Singh alias Pappu (deceased) could not be seen anywhere. On this, when he started searching for his brother-in-law (*Jija*), he came to know that his brother-in-law was sitting in the hotel of Manoj Chhinta at Haripurdhar and on making inquiries, Manoj Chhinta disclosed to him that Rajender Singh alias Pappu (deceased) had left his homestay at about 6:30 p.m. At about 10 p.m. he was telephonically informed by Sunder Lalta that Rajender alias Pappu (deceased) was murdered by Kaka Manta and thereafter he was taken in a car and his corpse was thrown in a gorge near *Kharoti Khala*. Sunder Lalta also told him that Kaka Manta was accompanying Naresh Kumar (petitioner herein) and Singhta. Thereafter, the complainant Rajender Kumar along with Ankit and Tanmay went to *Kharoti Khala* in search of the deceased and found the corpse of the deceased



lying in the *ghaasni* at a distance of about 50-60 meters from the road. On the basis of the statement of the complainant, FIR in question came to be registered and the investigation commenced and on 19.08.2023 he was arrested.

3. The bail application has been filed by the petitioner on the ground that he is innocent and is in judicial custody since 19.08.2023. Learned counsel for the petitioner contended that there is inordinate delay in conclusion of trial, which infringes upon the right of speedy trial of the petitioner, as out of total 61 witnesses (42 witnesses in main *challan* and 19 witnesses in the supplementary *challan*) cited by the prosecution, till date, only 13 prosecution witnesses have been examined and the trial is not going to be completed in near future, as such, he deserves to be released on bail on the ground that his right of speedy trial has been violated. He also contended that no fruitful purpose would be served by keeping the petitioner behind the bars for an unlimited period as other co-accused namely Rajat Lalta, Ramesh Kumar, Lucky and Saurav Manta alias Kaka have already been released on bail



by this Court and the petitioner also deserves to be released on bail on the ground of parity.

4. Per contra, the learned Additional Advocate General opposed the bail application on the ground that keeping in view the gravity of the offence alleged to have been committed by the petitioner, he is not entitled to be enlarged on bail.

5. I have heard the learned Counsel for the petitioner as well as learned Additional Advocate General and have also gone through the record of the case.

6. It is well settled that Article 21 of the Constitution of India guarantees for speedy trial and an undertrial prisoner cannot be detained in jail/custody for an indefinite period. The Hon'ble Supreme Court has consistently held that the undertrials cannot be allowed to languish for years together in jail, while the trials proceed at snail's pace. If ultimately, the accused is found to be not guilty, the number of years, months and days spent by such accused as undertrial in jail, can never be given back to him and this is certainly a violation of his valuable right under Article 21 of the Constitution of India.



7. In **Abdul Rehman Antulay & Ors. vs. R.S. Nayak & Anr., (1992) 1 SCC 225**, a Constitution Bench of the Hon'ble Supreme Court held that right to speedy trial is part of fair, just and reasonable procedure implicit in Article 21 and is reflected in Section 309 Cr. P.C. and that the said right comprehends all stages viz., investigation, inquiry, trial, appeal, revision and retrial. The relevant portion of the judgment reads as under:-

"81. Article 21 declares that no person shall be deprived of his life or liberty except in accordance with the procedure prescribed by law. The main procedural law in this country is the Code of Criminal Procedure, 1973. Several other enactments too contain many a procedural provision. After Maneka Gandhi v. Union of India (AIR 1978 SC 597), it can hardly be disputed that the 'law' (which has to be understood in the sense the expression has been defined in clause (3)(a) of Article 3 of the Constitution) in Article 21 has to answer the test of reasonableness and fairness inherent in Articles 19 and 14. In other words, such law should provide a procedure which is fair, reasonable and just. Then alone, would it be in consonance with the command of Article 21. Indeed, wherever necessary, such fairness must be read into such law. Now, can it be said that a law which does not provide for a reasonably prompt investigation, trial and conclusion of a criminal case is fair, just and reasonable? It is both in the interest of the accused as well as the society that a criminal case is concluded soon. If the accused is guilty, he ought to be declared so. Social interest lies in punishing the guilty and exoneration of the innocent but this determination (of guilt or innocence) must be arrived at with reasonable despatch - reasonable in all the circumstances of the case. Since it is the accused who is charged with the offence and is also the person whose life and/or liberty is at peril, it is but fair to say that he has a right to be tried speedily. Correspondingly, it is the obligation of the State to respect and ensure this right. It needs no emphasis to say, the very fact of being accused of a crime is cause for concern. It affects the reputation and



the standing of the person among his colleagues and in the society. It is a cause for worry and expense. It is more so, if he is arrested. If it is a serious offence, the man may stand to lose his life, liberty, career and all that he cherishes.”

8. In **Supreme Court Legal Aid Committee Representing Undertrial Prisoners vs. Union of India (1994) 6 SCC 731**, it was held that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. However, owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, Courts are tasked with deciding whether an individual ought to be released pending trial or not. Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, Courts would ordinarily be obligated to enlarge them on bail. The relevant portion of the judgment reads as under:-

“15.Despite this provision, we have directed as above mainly at the call of Article 21 as the right to speedy trial may even require in some cases quashing of a criminal proceeding altogether, as held by a Constitution Bench of this Court in A.R. Antulay v. R. S. Nayak¹¹, release on bail, which can be taken to be embedded in the right of speedy trial, may, in some cases be the demand of Article 21 As



we have not felt inclined to accept the extreme submission of quashing 7 (1980) 1 SCC 98 : 1980 SCC (Cri) 40 8 (1986) 4 SCC 481 :1986 SCC (Cri) 511 9 (1983) 2 SCC 104 : 1983 SCC (Cri) 361 10 (1994) 3 SCC 569: 1994 SCC (Cri) 899 11 (1992) 1 SCC 225 :1992 SCC (Cri) 93 the proceedings and setting free the accused whose trials have been delayed beyond reasonable time for reasons already alluded to, we have felt that deprivation of the personal liberty without ensuring speedy trial would also not be in consonance with the right guaranteed by Article 21. Of course, some amount of deprivation of personal liberty cannot be avoided in such cases; but if the period of deprivation pending trial becomes unduly long, the fairness assured by Article 21 would receive a jolt. It is because of this that we have felt that after the accused persons have suffered imprisonment which is half of the maximum punishment provided for the offence, any further deprivation of personal liberty would be violative of the fundamental right visualised by Article 21, which has to be telescoped with the right guaranteed by Article 14 which also promises justness, fairness and reasonableness in procedural matters.....”

9. The Supreme Court in the case of **State through CBI Vs. Dr. Narayan Waman Nerukar and another** reported in **(2002) 7 SCC 6**, has observed as under:

"6. Recently a 7-Judges Bench of this Court in P. Ramachandra Rao vs. State of Karnataka (2002) 4 SCC 578, held as under:

"1) No person shall be deprived of his life or his personal liberty except according to procedure established by law-declares Article 21 of the Constitution. 'Life and liberty', the words employed in shaping Article 21, by the founding fathers of the Constitution, are not to be read narrowly in the sense drearily dictated by dictionaries; they are organic terms to be construed meaningfully. Embarking upon the interpretation thereof, feeling the heart-throb of the



Preamble, deriving strength from the Directive Principles of state policy and alive to their constitutional obligation, the courts have allowed Article 21 to stretch its arms as wide as it legitimately can. The mental agony, expense and strain which a person proceeded against in criminal law has to undergo and which, coupled with delay, may result in impairing the capability or ability of the accused to defend himself have persuaded the constitutional courts of the country in holding the right to speedy trial a manifestation of fair, just and reasonable procedure enshrined in Article 21. Speedy trial, again, would encompass within its sweep all its stages including investigation, inquiry, trial, appeal, revision and re-trial - in short, everything commencing with an accusation and expiring with the final verdict the two being respectively the terminus a quo and terminus ad quem of the journey which an accused must necessarily undertake once faced with an implication. The constitutional philosophy propounded as right to speedy trial has though grown in age by almost two and a half decades, the goal sought to be achieved is yet a far off peak. Myriad fact-situations bearing testimony to denial of such fundamental right to the accused persons, on account of failure on the part of prosecuting agencies and executive to act, and their turning an almost blind eye at securing expeditious and speedy trial so as to satisfy the mandate of Article 21 of the Constitution have persuaded this Court in devising solutions which go to the extent of almost enacting, by judicial verdict bars of limitation beyond which the trial shall not proceed and the arm of law shall lose its hold. In its zeal to protect the right to speedy trial of an accused, can the court devise and almost enact such bars of limitation though the Legislature and the statutes have not chosen to do so - is a question of far-reaching implications which has led to the constitution of this bench of seven-judge strength."

10. In **Satender Kumar Antil Vs. Central Bureau of Investigation & another, (2022) 10 Supreme Court Cases 51**, after taking note of the decision given in **Surinder Singh**



vs. State of Punjab (2005) 7 SCC 387, it has been held by the Hon'ble Supreme Court that personal liberty is an important aspect of our constitutional mandate. The relevant portion of the judgement reads as under:-

"53. Surinder Singh v. State of Punjab:

"8. It is no doubt true that this Court has repeatedly emphasised the fact that speedy trial is a fundamental right implicit in the broad sweep and content of Article 21 of the Constitution. The aforesaid article confers a fundamental right on every person not to be deprived of his life or liberty except in accordance with the procedure prescribed by law. If a person is deprived of his liberty under a procedure which is not reasonable, fair, or just, such deprivation would be violative of his fundamental right under Article 21 of the Constitution. It has also been emphasised by this Court that the procedure so prescribed must ensure a speedy trial for determination of the guilt of such person. It is conceded that some amount of deprivation of personal liberty cannot be avoided, but if the period of deprivation pending trial becomes unduly long, the fairness assured by Article 21 would receive a jolt. These are observations made in several decisions of this Court dealing with the subject of speedy trial. In this case, we are concerned with the case where a person has been found guilty of an offence punishable under Section 302 IPC and who has been sentenced to imprisonment for life. The Code of Criminal Procedure affords a right of appeal to such a convict. The difficulty arises when the appeal preferred by such a convict cannot be disposed of within a reasonable time....."



11. Thus from the foregoing enunciation of the law laid down by the Hon'ble Supreme Court, it becomes clear that long incarceration of an undertrial without any likelihood of conclusion of trial in near future infringes upon the right of speedy trial of such undertrial. Now adverting to the case at hand. This court is conscious of the fact that the charges levelled against the petitioners are grave and a serious threat to societal harmony. However, it would be pertinent to mention here that a period of more than two years has elapsed and out of total 61 witnesses (42 witnesses in main challan and 19 witnesses in the supplementary challan) cited by the prosecution, till date, only 13 witnesses have been examined and it is apparent that the trial is not going to be completed in near future. Hence, keeping in mind, the length of the period spent by the petitioner in custody and the unlikelihood of the trial being completed anytime soon, this Court appears to have been left with no other option except to grant bail as the trial has not progressed much. The petitioner has remained in custody since 19.08.2023 and has suffered incarceration for more than two years. His detention virtually became pre-trial



punishment to him. There is also nothing on record to suggest that the delay in trial is attributable to the petitioner. Having regard to the fact that the petitioner is in custody for the last more than two years, the petitioner deserves to be released on bail. He can not be kept behind the bars for an unlimited period, as further incarceration of the petitioner would be violative of his right enshrined under Article 21 of the Constitution. The prosecution has failed to produce any material on record to suggest that the petitioner will tamper with the prosecution evidence on being enlarged on bail and there is also nothing to suggest that he will abscond and flee from justice, if released on bail, as admittedly, he is permanent resident of District Shimla.

12. Hence, after going through the material available on record and considering the overall facts and circumstances of the case, but without commenting on merits thereon and taking into account factors and parameters, as propounded by the Supreme Court, this Court finds that the present is a fit case where judicial discretion to admit the petitioner on bail is required to be exercised in his favour. Accordingly, the bail



application is allowed and it is ordered that the petitioner, who has been arrested by the police, in case FIR No. 45/2023, dated 15.08.2023, under Sections 302, 201 & 34 of IPC, registered at Police Station Sangrah, District Sirmaur, H.P., shall be forthwith released on bail, subject to his furnishing personal bond to the tune of Rs. 2,00,000/- (Rupees two lakhs) with one surety in the like amount to the satisfaction of learned trial Court. The bail order is, however, subject to the following conditions:-

- “(i) that the petitioner will appear before the Court and the Investigating Officer whenever required ;*
- (ii) that he will 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 any facts to the Court or the police;*
- (iii) that he will not tamper with the prosecution evidence nor he will try to win over the prosecution witnesses or terrorise them in any manner;*
- (iv) that he will not deliberately and intentionally act in a manner which may tend to delay the investigation or the trial of the case.*
- (v) that he will not leave India without prior permission of the Court.”*

13. Needless to state that the Investigating agency shall be at liberty to move this Court for cancellation of the



bail, if any of the aforesaid conditions is violated by the petitioner.

14. Be it stated that any expression of opinion given in this order does not mean an expression of opinion on the merits of the case and the trial Court will not be influenced by any observations made therein.

15. The Registry is directed to forward a soft copy of the bail order to the Superintendent, Central Jail Nahan, through e-mail, with a direction to enter the date of grant of bail in the e-prison software.

16. In case, the petitioner is not released within a period of seven days from the date of grant of bail, the Superintendent, Central Jail Nahan, is directed to inform this fact to the Secretary, DLSA, Nahan. The Superintendent, Central Jail Nahan, is further directed that if the petitioner fails to furnish the bail bonds, as per the order passed by this Court, within a period of one month from today, the said fact be submitted to this Court.

(Sushil Kukreja)
Judge

October 16, 2025(raman)