

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr. MP (M) No.2677 of 2025

Date of Decision: 27.11.2025

Paramjeet Singh

...Petitioner

Versus

State of Himachal Pradesh

...Respondent

Coram:

The Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?¹

For the Petitioner:

Mr. N.S.Chandel, Senior Advocate with
Mr. Sidharth and Ms. Shwetima Dogra,
Advocate.

For the Respondent:

Mr. Anup Rattan, Advocate General
with Mr. Rajan Kahol and Mr. Vishal
Panwar, Additional Advocate Generals
and Mr. Ravi Chauhan and Mr. Anish
Banshtu, Deputy Advocate General.

Sandeep Sharma, J. (Oral)

Bail petitioner namely, Paramjeet Singh, who is behind the bars since 20.04.2024, has approached this Court in the instant proceedings filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, for grant of regular bail in case FIR No.86 of 2024, dated 11.04.2024, registered at Police Station Nalagarh, District Solan, Himachal Pradesh under Sections 302, 307, 323, 325, 427, 201 read with Section 34 of IPC.

¹ Whether reporters of the local papers may be allowed to see the judgment?

2. Pursuant to order dated 12.11.2025, respondent-State has filed status report and HC Pawan Kumar has come present with record. Record perused and returned.

3. Close scrutiny of the record/status report made available to this Court suggest that on 11.04.2021, at 2.24 AM, police Chowki, Joghon received telephonic call that quarrel is taking place at Rana Punjabi Dhaba, Baglehar. On the basis of aforesaid information, police reached the spot and recorded the statement of complainant, namely Sh. Jagjit Singh under Section 154 Cr.P.C, who alleged that on 10.04.2024, at 6.30 PM, he reached Rana Daba on his motorcycle bearing No.HP-12-N-7256, where his friends namely, Kapil Gautam, Sukhvinder @ Mallu and Abhishek Kumar were already present. Complainant further alleged that he alongwith his friends consumed liquor, but thereafter, persons namely, Shilu and Bhajan, who were also sitting in the Dhaba, started quarreling. He alleged that he alongwith his friends also went towards Joghon driving his motorcycle, as detailed hereinabove, which at that relevant time was being driven by Sukhvinder @ Mallu. He alleged that, while they reached near Baglehar bridge, person namely Sukhvinder @ Mallu while driving the motorcycle rashly threw the same in nearby Khud, as a result of which, they all suffered multiple injuries. Complainant alleged that accident happened on account of rash

and negligent driving of motorcycle by Sukhvinder @ Mallu. All the injured were taken to CHC, Nalagarh, where Medical Officer declared complainant Jagjit Singh fit for recording statement, whereas persons namely, Sukhvinder @ Mallu and Kapil Gautam were declared unfit for statement. In the afore background, statement of complainant Jagjit Singh under Section 154 Cr.P.C came to be recorded and thereafter, on the basis of same, FIR under Sections 279 and 337 IPC came to be registered.

4. On 11.04.2024, Medical Officer, CHC Nalagarh referred Sukhvinder @ Mallu to PGI for treatment, whereas persons namely, Kapil Gautam and complainant Jagjit Singh were taken to Simran hospital by their family members on the same day. Unfortunately, on 13.04.2024, Sukhvinder @ Mallu succumbed to his injuries suffered by him in the accident. Since deceased remained unconscious throughout, his statement could not be recorded, however, on 13.04.2024, police during investigation recorded the statement of complainant Jagjit Singh under Section 161 Cr.P.C, wherein he alleged that accused Paramjeet Singh @ Rikki i.e. bail petitioner herein had purposely with an intention to kill him as well as his friends namely, Kapil Gautam, Sunil Kumar @ Shilu and Sukhvinder @ Mallu hit the motorcycle from behind, as a result thereof, same fell from the bridge. In light of aforesaid fresh statement made by complainant Jagjit Singh, police deleted

Sections 279 and 337 IPC from the FIR and incorporated Sections 302, 307, 323 and 34 IPC. Petitioner herein as well as other co-accused, namely Yugal Kishore and Abhishek were arrested on 20.04.2024. Though, co-accused Yugal Kishore and Abhishek stand enlarged on bail by this Court, but bail petitioner herein is behind the bars for more than 1 ½ years. Since investigation in the case is complete and nothing remains to be recovered from the bail petitioner, coupled with the fact that prosecution evidence is yet to commence, petitioner has approached this Court in the instant proceedings for grant of regular bail on the ground that he has been falsely implicated and there is an inordinate delay in conclusion of trial.

5. Mr. N.S.Chandel, learned Senior counsel representing the petitioner, vehemently argued that statement of complainant Jagjit Singh recorded under Section 161 Cr.P.C, on the basis of which, FIR under Section 302, 307, 323, 325, 427, 201 read with Section 34 of IPC came to be registered is wholly unreliable for the reason that on two occasions complainant made two different statements. Initially, in statement recorded under Section 151 Cr.P.C, he claimed that accident occurred on account of rash and negligent driving of deceased Sukhvinder @ Mallu, but subsequently he in his statement recorded under Section 161 Cr.P.C., which was recorded after the death of deceased

Sukhvinder @ Mallu, alleged that accident was caused by accused Paramjeet Singh, who hit the motorcycle from behind. He further submitted that no case muchless case under Section 302 and 307 IPC is made out against the petitioner, especially when as per initial version of the complainant Jagjit Singh, petitioner was not present at the Dhaba where some altercation took place interse complainant party and accused. He further submitted that no plausible explanation has been rendered on record by the complainant Jagjit Singh that why and under what circumstances, he had made statement under Section 154 Cr.P.C., stating therein that accident occurred due to rash and negligent driving of deceased Sukhvinder @ Mallu, which ultimately came to be changed on 13.04.2024. While referring to the statements given by other two persons namely, Kapil Gautam and Sunil alias Shilu under Section 161 Cr.P.C that motorcycle being driven by deceased Sukhvinder @ Mallu was hit from behind by Paramjeet Singh, learned counsel for the petitioner submitted that same were also not trustworthy for the reason that prior to getting their statements recorded on 13.04.2024, they at no point of time made an effort to get their statements recorded with the police that no accident had actually taken place, rather motorcycle being driven by deceased Sukhvinder @ Mallu fell from the bridge after its being hit by the vehicle being driven by the bail petitioner. He

submitted that the afore two persons were neither referred to PGI nor they had received serious injuries, as a result thereof, they could always make statement to the police that motorcycle was hit by present bail petitioner with an intention to kill them as well as deceased Sukhvinder @ Mallu. He further submitted that bail petitioner is behind the bars for more than one year seven months, but till date, no prosecution witness has been examined, as a result thereof, petitioner is behind the bars for an indefinite period during the trial, which is wholly impermissible. He further submitted that continuous incarceration of petitioner in jail during trial would amount to pre-trial conviction, which is not permissible under law.

6. To the contrary, Mr. Rajan Kahol, learned Additional Advocate General, though admitted the factum with regard to filing of the challan in the competent court of law, but he contended that second statement made by complainant Jagjit Singh, clearly suggests that Sukhvinder @ Mallu was murdered by present bail petitioner, who at the relevant time was driving the Scorpio jeep. He submitted that though at first instance above named complainant disclosed to the police that accident occurred on account of rash and negligent driving of deceased Sukhvinder @ Mallu, but subsequently he alongwith his two friends, who at the relevant time were also riding on the same motorcycle, categorically disclosed to the police that accident did not occur on

account of rash and negligent driving of deceased Sukhvinder @ Mallu, rather motorcycle was hit by Paramjeet present bail petitioner with an intention to kill them. He submitted that since present bail petitioner is a hardened criminal having history of committing many crimes, complainant as well as his friends were scared from making truthful statement, but after death of their friend, they came forward and gave true picture to the police, on the basis of which, ultimately FIR under Section 302 IPC came to be registered against the petitioner. He further submitted that otherwise also, conduct of the petitioner, which is evident from status report, clearly suggests that he is hardened criminal and in the event of his being enlarged on bail, he may not only flee from justice, but may also cause harm to the complainant as well as material prosecution witnesses, whose statements are yet to be recorded. He further submitted that subsequently same statement was given by Sunil Kumar under Section 164 Cr.P.C before the Judicial Magistrate, Nalagarh. He further submitted that trial has already commenced and the trial Court has already fixed the date for recording the statements of prosecution witnesses and as such, it cannot be said that there is inordinate delay in conclusion of trial.

7. Having heard learned counsel representing the parties and perused the material available on record, this Court finds that co-accused namely, Yugal Kishore and Abhishek, who at the

relevant time were sitting with present bail petitioner in Scorpio jeep, already stand enlarged on bail pursuant to the orders passed by this Court, whereas present bail petitioner is behind the bars for more than one year and seven months, but till date, no prosecution witness has been examined. Though, it appears from the status report filed by the respondent-State that today case has been fixed for recoding the statements of prosecution witnesses, but this Court cannot lose sight of the fact that considerable time is likely to be consumed in recording the statements of 49 prosecution witnesses. Since it took almost 1 ½ years for the court below to reach the stage of recording evidence, this Court can well presume that considerable time would be consumed in conclusion of trial and if during aforesaid period petitioner is left to incarcerate in jail for an indefinite period during trial, it would not only amount to pre-trial conviction, but would also violate Article 21 of the Constitution of India.

8. Leaving everything aside, there is another crucial aspect of the matter in the instant case that complainant at first instance got his statement recorded under Section 154 Cr.P.C., stating therein that accident occurred on account of rash and negligent driving of deceased Sukhvinder @ Mallu, on the basis of which, FIR, at first instance, came to be registered under Sections 279, 337 and 338 of IPC. However, after three days of lodging of

FIR, above named complainant changed his version that too after the death of deceased Sukhvinder @ Mallu. In his subsequent statement recorded under Section 161 Cr.P.C., he alleged that accident did not occur on account of rash and negligent driving of the deceased Sukhvinder @ Mallu, rather same happened on account of intentional accident caused by present bail petitioner, who at the relevant time was driving Scorpio jeep. Police after having taken note of aforesaid statement, deleted Sections 279 and 337 IPC and registered a case under Sections 302 and 307 read with Section 34 IPC against petitioner alongwith other co-accused, namely Abhishek and Yugal Kishore, who otherwise stand enlarged on bail.

9. Though, Mr. Rajan Kahol, learned Additional Advocate General, vehemently argued that complainant could have always come out with truthful storey at subsequent stage, but he was unable to point out explanation, if any, rendered by aforesaid person with regard to wrong statement, if any, given by him at first instance, while getting his statement recorded under Section 154 Cr.P.C. Interestingly, police at the time of recording statement under Section 154 Cr.P.C not even recorded the statement of other two persons, namely Kapil Gautam and Sunil Kumar, who were pillion riders and had received injuries like complainant Jagjit Singh. Above named two persons kept mum till unfortunate death

of deceased Sukhvinder @ Mallu and on 13.04.2024 got their statements recorded with the police that accident did not occur on account of rash and negligent driving of deceased Sukhvinder @ Mallu, rather motorcycle being driven by the deceased was hit from behind by Scorpio jeep being driven by the present bail petitioner. Since it is not in dispute that these two above named persons did not receive serious injuries and they were hale and hearty, coupled with the fact that they were declared fit to give statement, it is not understood that why they failed to disclose to police that accident was intentionally caused by present bail petitioner with a view to kill them.

10. Though, aforesaid aspects of the matter are required to be considered and decided by learned trial court in the totality of evidence collected on record by prosecution, but taking note of aforesaid glaring aspect of the matter, this Court sees no reason to let the bail petitioner incarcerate in jail for indefinite period, who is already behind the bars for more than one year and seven months without his being held guilty. Besides above, another crucial aspect of the matter i.e. delay in conclusion of trial, is a factor, which further persuades this Court to consider the prayer made on behalf of the petitioner.

11. By now, it is well settled that speedy trial is legal right of the accused and one cannot be made to suffer indefinitely for

delay in trial and as such, this Court sees no reason to keep the bail petitioner behind the bars for indefinite period during trial. Delay in trial has been held to be in violation of the right guaranteed under Article 21 of Constitution of India. Reliance is placed on judgment passed by the Hon'ble Apex Court in case titled **Umarmia Alias Mamumia v. State of Gujarat**, (2017) 2 SCC 731, relevant para whereof has been reproduced herein below:-

"11. This Court has consistently recognised the right of the accused for a speedy trial. Delay in criminal trial has been held to be in violation of the right guaranteed to an accused under Article 21 of the Constitution of India. (See: Supreme Court Legal Aid Committee v. Union of India, (1994) 6 SCC 731; Shaheen Welfare Assn. v. Union of India, (1996) 2 SCC 616) Accused, even in cases under TADA, have been released on bail on the ground that they have been in jail for a long period of time and there was no likelihood of the completion of the trial at the earliest. (See: Paramjit Singh v. State (NCT of Delhi), (1999) 9 SCC 252 and Babba v. State of Maharashtra, (2005) 11 SCC 569)."

12. Reliance is also placed upon the judgment passed by this Court in **Jeet Ram versus State of H.P.**, Latest HLJ 2003(HP) 23, wherein it has been held as under:-

"7. As is the case of the prosecution, the only role attributed to the accused persons is that they caught hold of the deceased and their co-accused Savitri and Bimla pelted stones at him and thereafter Bhupender gave him the fatal blow with a 'Draft'. Prima facie it is difficult to believe that when a person is caught hold of by three persons two other persons are pelting stones at him, then such person and those persons who have caught hold of him will not sustain any injury. Therefore, the version regarding pelt ing of stones and holding of the deceased is prima facie clouded by suspicion as none of the accused persons who are alleged to have caught hold of the deceased while co- accused Savitri and Bimla were pelting stones at the deceased did not receive any injury whatsoever and no injury caused by the pelting of stones was found on the per son of the deceased. Mere catching hold of the deceased by the accused persons may not necessarily lead to the conclusion that they haw the common object of killing the deceased as the applicability of Section 149, IPC, In the facts of the ease, is a debatable question.

8. In *Thakar Singh v. State of Punjab*, 1969 Cur LJ 810 (relied upon by the learned Counsel for the accused persons to substantiate his contention) wherein the case of the prosecution was that accused Niranjn Singh caught hold of the deceased and fell him down and accused Thakar Singh throttled his neck, the Punjab and Haryana High Court held as under :

"..... It is not a case in which it can be legitimately contended on behalf of the prosecution that there was any pre-planned common intention on the part of both Niranjn Singh and his father Thakar Singh in throttling the deceased. There could be no such intention on the part of Niranjn Singh even in executing his act of catching hold of the boy by the arms and throwing him down on the ground. The act of throttling by Thakar Singh followed per se and was independent of the act of throwing the boy down by Niranjn Singh. Thus, there is no community of intention in the act performed by Niranjn Singh and that executed by Thakar Singh. The two are distinct ones and one has nothing to do with the other. No intention on the part of Niranjn Singh from his act could be inferred in common with the intention of throttling by Thakar Singh, which followed later on. It is not a case in which it could be held that throwing down was committed by Niranjn Singh in furtherance of the common intention of throttling by Thakar Singh. Thus, the applicability of Section 34 of the Indian Penal Code is uncalled for. Niranjn Singh appellant could not be held vicariously liable by virtue of that Section. This is additional ground of his being entitled to acquittal."

9. In *Jaspal Singh v. State of Haryana*, 1986 (2) Recent CR 582 (2) wherein one of the accused caught hold of the deceased while armed with a stick but did not cause any injury to the deceased whereas his co-accused caused injuries to the deceased which resulted in his death, the Punjab and Haryana High Court granted bail to the accused who had only caught hold of the deceased while on the following premise :

"Though the motive was with the petitioner and he caught hold of the deceased while armed with a stick, he did, not cause any injury to the deceased. Rather his co-accused did cause injuries to the deceased which resulted in his death. In this situation, applicability of Section 34 Indian Penal Code is a moot point. It would thus be apt that the petitioner gets the concession of bail."

10. In *Kuldip Singh v. State of Punjab*, 1994 (3) Rec Cri R 137 : (1994 Cri LJ 2201) (SC) where one of the accused inflicted the injury on the head of the injured with sharp edged weapon and the second accused gave 'Lathi' blow on his shoulder causing simple injury allegedly with the common intention of accused in an attempt to commit the murder of the injured, the Hon'ble Supreme Court held that the injury on the head of the injured was serious one and proved to be grievous, therefore, the offence under Section 307, I.P.C. is made out against Kuldip Singh who caused 11 such injury but in so far as the other co-accused is concerned, he inflicted only one blow on the shoulder with the 'Lathi' causing swelling, therefore, it could not be said that he shared the common intention along with the Kuldip Singh in attempt to commit the murder of the injured."

"12. There is no doubt that offence punishable under [Section 302, I.P.C.](#) is a grave offence for which the extreme penalty of death has been provided in law. However, the mere gravity of the offence and the severity of punishment is no ground for rejection of bail, while deciding the question of grant or refusal of the bail, other factors such as the nature of evidence, the part played by the accused in the commission of the offence and the likelihood of the accused absconding or, tampering with prosecution evidence has also to be taken into account".

13. Recently, Hon'ble Apex Court in ***Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Another***, Criminal Appeal No.2787 of 2024, decided on 03.07.2024, adversely commented upon the approach of trial Court as well as High Court while considering the prayer for grant of bail. In the aforesaid judgment, Hon'ble Supreme Court having taken note of the fact that appellant in that case was in jail for last four years and Court till that date was not able to frame charges, proceeded to enlarge accused on bail in a case registered under the provisions of Unlawful Activities (Prevention) Act, 1967. In no uncertain terms, Hon'ble Apex Court in aforesaid judgment held that, however serious a crime may be, an accused has right to speedy trial, as enshrined in Article 21 of

the Constitution of India. Relevant Paras of aforesaid judgment are reproduced herein below, which read as under:

“7. Having heard the learned counsel appearing for the parties and having gone through the materials on record, we are inclined to exercise our discretion in favour of the appellant herein keeping in mind the following aspects:

- (i) The appellant is in jail as an under-trial prisoner past four years;*
- (ii) Till this date, the trial court has not been able to even proceed to frame charge; and*
- (iii) As pointed out by the counsel appearing for the State as well as NIA, the prosecution intends to examine not less than eighty witnesses.*

8. Having regard to the aforesaid, we wonder by what period of time, the trial will ultimately conclude. Howsoever serious a crime may be, an accused has a right to speedy trial as enshrined under the Constitution of India.

9. Over a period of time, the trial courts and the High Courts have forgotten a very well settled principle of law that bail is not to be withheld as a punishment.

*10. In the aforesaid context, we may remind the trial courts and the High Courts of what came to be observed by this Court in **Gudikanti Narasimhulu & Ors. v. Public Prosecutor**, High Court reported in (1978) 1 SCC 240. We quote:*

“What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal. Lord Russel, C.J., said [R v. Rose, (1898) 18 Cox] :

"I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial."

*11. The same principle has been reiterated by this Court in **Gurbaksh Singh Sibba v. State of Punjab** reported in (1980) 2 SCC 565 that the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether*

it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment.

12. Long back, in **Hussainara Khatoon v. Home Secy., State of Bihar** reported in (1980) 1 SCC 81, this court had declared that the right to speedy trial of offenders facing criminal charges is “implicit in the broad sweep and content of Article 21 as interpreted by this Court”. Remarking that a valid procedure under Article 21 is one which contains a procedure that is “reasonable, fair and just” it was held that:

“Now obviously procedure prescribed by law for depriving a person of liberty cannot be “reasonable, fair or just” unless that procedure ensures a speedy trial for determination of the guilt of such person. No procedure which does not ensure a reasonably quick trial can be regarded as “reasonable, fair or just” and it would fall foul of Article 21. There can, therefore, be no doubt that speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21. The question which would, however, arise is as to what would be the consequence if a person accused of an offence is denied speedy trial and is sought to be deprived of his liberty by imprisonment as a result of along delayed trial in violation of his fundamental right under Article 21.”

13. The aforesaid observations have resonated, time and again, in several judgments, such as **Kadra Pahadiya & Ors. v. State of Bihar** reported in (1981) 3 SCC 671 and **Abdul Rehman Antulay v. R.S. Nayak** reported in (1992) 1 SCC 225. In the latter the court re-emphasized the right to speedy trial, and further held that an accused, facing prolonged trial, has no option:

“The State or complainant prosecutes him. It is, thus, the obligation of the State or the complainant, as the case maybe, to proceed with the case with reasonable promptitude. Particularly, in this country, where the large majority of accused come from poorer and weaker sections of the society, not versed in the ways of law, where they do not often get competent legal advice, the application of the said rule is wholly inadvisable. Of course, in a given case, if an accused demands speedy trial and yet he is not given one, may be a relevant factor in his favour. But we cannot

disentitle an accused from complaining of infringement of his right to speedy trial on the ground that he did not ask for or insist upon a speedy trial.”

14. In **Mohd Muslim @ Hussain v. State (NCT of Delhi)** reported in 2023INSC 311, this Court observed as under:

“21. Before parting, it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable. Jails are overcrowded and their living conditions, more often than not, appalling. According to the Union Home Ministry’s response to Parliament, the National Crime Records Bureau had recorded that as on 31st December 2021, over 5,54,034 prisoners were lodged in jails against total capacity of 4,25,069 lakhs in the country. Of these 122,852 were convicts; the rest 4,27,165 were undertrials.

22. The danger of unjust imprisonment, is that inmates are at risk of “prisonisation” a term described by the Kerala High Court in *A Convict Prisoner v. State* reported in 1993Cri LJ 3242, as “a radical transformation” whereby the prisoner:

“loses his identity. He is known by a number. He loses personal possessions. He has no personal relationships. Psychological problems result from loss of freedom, status, possessions, dignity any autonomy of personal life. The inmate culture of prison turns out to be dreadful. The prisoner becomes hostile by ordinary standards. Self-perception changes.”

23. There is a further danger of the prisoner turning to crime, “as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal”(also see Donald Clemmer’s ‘The Prison Community’ published in 1940). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases,

where special laws enact stringent provisions, are taken up and concluded speedily.”

15. The requirement of law as being envisaged under Section 19 of the National Investigation Agency Act, 2008 (hereinafter being referred to as “the 2008 Act”) mandates that the trial under the Act of any offence by a Special Court shall be held on day-to-day basis on all working days and have precedence over the trial of any other case and Special Courts are to be designated for such an offence by the Central Government in consultation with the Chief Justice of the High Court as contemplated under Section 11 of the 2008.

16. A three-Judge Bench of this Court in **Union of India v. K.A. Najeeb** reported in (2021) 3 SCC 713] had an occasion to consider the long incarceration and at the same time the effect of Section 43-D(5) of the UAP Act and observed as under : (SCC p. 722, para 17)

“17. It is thus clear to us that the presence of statutory restrictions like Section 43-D(5) of the UAPA per se does not oust the ability of the constitutional courts to grant bail on grounds of violation of Part III of the Constitution. Indeed, both the restrictions under a statute as well as the powers exercisable under constitutional jurisdiction can be well harmonised. Whereas at commencement of proceedings, the courts are expected to appreciate the legislative policy against grant of bail but the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. Such an approach would safe-guard against the possibility of provisions like Section 43-D(5) of the UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.”

17. In the recent decision, **Satender Kumar Antil v. Central Bureau of Investigation** reported in (2022) 10 SCC 51, prolonged incarceration and inordinate delay engaged the attention of the court, which considered the correct approach towards bail, with respect to several enactments, including Section 37 NDPS Act. The court expressed the opinion that Section 436A (which requires inter alia the accused to be enlarged on bail if the trial is not concluded within specified periods) of the Criminal Procedure Code, 1973 would apply:

“We do not wish to deal with individual enactments as each special Act has got an objective behind it, followed by the rigour imposed. The general principle governing delay would apply to these categories also. To make it clear, the provision contained in Section 436-A of the Code would apply to the Special Acts also in the absence of any specific provision. For example, the rigour as provided under Section 37 of the NDPS Act would not come in the way in such a case as we are dealing with the liberty of a person. We do feel that more the rigour, the quicker the adjudication ought to be. After all, in these types of cases number of witnesses would be very less and there may not be any justification for prolonging the trial. Perhaps there is a need to comply with the directions of this Court to expedite the process and also a stricter compliance of Section 309 of the Code.”

18. *Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, maybe, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.*

19. *If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.”*

14. Hon'ble Apex Court as well as this Court in catena of cases have repeatedly held that one is deemed to be innocent till the time guilt, if any, of his/her is not proved in accordance with law. In the case at hand also, guilt, if any, of the accused is yet to

be proved in accordance with law, by leading cogent and convincing material on record and as such, his incarceration for indefinite period is clear cut violation of Fundamental Right guaranteed under Article 21 of the Constitution of India. Apprehension expressed by learned Additional Advocate General, that in the event of being enlarged on bail, bail petitioner may flee from justice or indulge in such offences again, can be best met by putting the bail petitioner to stringent conditions.

15. Hon'ble Apex Court in Criminal Appeal No. 227/2018, *Dataram Singh vs. State of Uttar Pradesh & Anr* decided on 6.2.2018 has held that freedom of an individual cannot be curtailed for indefinite period, especially when his/her guilt is yet to be proved. It has been further held by the Hon'ble Apex Court in the aforesaid judgment that a person is believed to be innocent until found guilty.

16. Hon'ble Apex Court in **Sanjay Chandra versus Central Bureau of Investigation**, (2012)¹ Supreme Court Cases 49 has held that gravity alone cannot be a decisive ground to deny bail, rather competing factors are required to be balanced by the court while exercising its discretion. It has been repeatedly held by the Hon'ble Apex Court that 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.

17. In **Manoranjana Sinh alias Gupta versus CBI**, (2017) 5 SCC 218, Hon'ble Apex Court has held that the object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise also, normal rule is of bail and not jail. Apart from above, Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment, which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

18. Apex Court in **Prasanta Kumar Sarkar versus Ashis Chatterjee and another** (2010) 14 SCC 496, has laid down various principles to be kept in mind, while deciding petition for bail viz. prima facie case, nature and gravity of accusation, punishment involved, apprehension of repetition of offence and witnesses being influenced.

19. In view of above, bail petitioner has carved out a case for himself, as such, present petition is allowed. Petitioner is ordered to be enlarged on bail, subject to furnishing personal bonds in the sum of Rs.5,00,000/- with two local sureties in the

like amount to the satisfaction of the learned trial Court, besides the following conditions:

- (a) He shall make himself available for the purpose of interrogation, if so required and regularly attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;
- (b) He shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;
- (c) He shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or the Police Officer; and
- (d) He shall not leave the territory of India without the prior permission of the Court.

20. It is clarified that if the petitioner misuses the liberty or violates any of the conditions imposed upon him, the investigating agency shall be free to move this Court for cancellation of the bail.

21. Any observations made hereinabove shall not be construed to be a reflection on the merits of the case and shall remain confined to the disposal of this petition alone. The petition stands accordingly disposed of.

22. A downloaded copy of this order shall be accepted by the learned trial Court, while accepting the bail bonds from the petitioner and in case, said court intends to ascertain the veracity

of the downloaded copy of order presented to it, same may be ascertained from the official website of this Court.

(Sandeep Sharma)
Judge

November 27, 2025
(shankar)s