

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous Bail Application No. 9687/2026
CNR: RJHC020572002026 | URN: CRLMB / 17942U / 2026

Satveer S/o Hardam

-----Petitioner

Versus

The State Of Rajasthan

-----Respondent

Connected With

S.B. Criminal Miscellaneous Bail Application No. 9808/2026
CNR: RJHC020589092026 | URN: CRLMB / 18140U / 2026

Teeta S/o Shri Vijarram

-----Petitioner

Versus

The State Of Rajasthan

-----Respondent

S.B. Criminal Miscellaneous Bail Application No. 9809/2026
CNR: RJHC020588682026 | URN: CRLMB / 18141U / 2026

Latoor S/o Devla

-----Petitioner

Versus

State Of Rajasthan

-----Respondent

For Petitioner(s)	:	Mr. A.K. Gupta, Sr. Adv. assisted by Mr. Sarwat Alam Mr. Ashutosh Naruka Mr. Rinesh Kumar Gupta
For Respondent(s)	:	Mr. Jitendra Singh Rathore, PP Mr. Harendra Singh Sinsinwar Mr. Shivam Sharma

HON'BLE MR. JUSTICE FARJAND ALI

Order

15/09/2026

1. The jurisdiction of this Court has been invoked by way of filing applications under Section 483 BNSS at the instance of accused-petitioners. The requisite details of the matter are tabulated herein below:

S.No.	Particulars of the Case	
1.	FIR Number	342/2021
2.	Concerned Police Station	Kaman
3.	District	Bharatpur
4.	Offences alleged in the FIR	Under Sections 147, 148, 149, 323, 341, 307, 302, 120-B of IPC and 3 & 25 of Arms Act.
5.	Offences added, if any	Sections 326, 427, 336 of IPC.
6.	Date of passing of impugned order	11.06.2026

2. These three bail applications have arisen out of the same incident and the lawyers representing the parties are the same and all three cases are listed today, thus with the consent of the parties all are being decided by this common order.
3. It is contended on behalf of the accused-petitioners that no case for the alleged offences is made out against them and their incarceration is not warranted. There are no factors at play in the case at hand that may work against grant of bail to the accused-petitioners and they have been made accused based on conjectures and surmises.
4. Contrary to the submissions of learned counsel for the petitioners, learned Public Prosecutor opposes the bail applications and submits that the present case is not fit for enlargement of accused on bail.
5. As it was observed by this Court while considering the bail plea of co-accused Sahab Singh i.e., S.B. CrI. Misc. 2nd Bail Application No. 3613/2024 decided vide order dated 23.10.2024, there were two incidents separate and at distinct places. One pertaining to murder of deceased Devi Ram @

Pappa and in the second incident which took place in village where large number of people made an assault over the house of the victim family.

6. It would be apt to reproduce the consideration made by this Court while granting bail to the co-accused Sahab Singh, the relevant bail order dated 23.10.2024 is reproduced as under:-

"1. The jurisdiction of this court has been invoked by way of filing the second bail application under Section 439 CrPC at the instance of accused-petitioner. The requisite details of the matter are tabulated herein below:

S.No.	Particulars of the Case	
1.	FIR Number	342/2021
2.	Concerned Police Station	Kama
3.	District	Bharatpur
4.	Offences alleged in the FIR	Sections 147, 148, 149, 323, 341, 307, 302 & 120-B of the IPC & Section 3/25 of the Arms Act
5.	Offences added, if any	Sections 326, 336 & 427 of the IPC
6.	Date of passing of impugned order	24.08.2023

2. The first bail application of the petitioner was dismissed as not pressed by this Court vide order dated 16.02.2024 passed in SBCRLMB No.1812/2024. Hence, the instant bail application.

3. Briefly stated the facts of the case necessary for disposal of the bail application are that a report came to be lodged at the instance of Ramveer on 12.06.2021 alleging interalia that when his father was going to Village Kama, in the mid-way, he was assaulted by ten accused persons, who were armed with weapons. The accused who inflicted injuries were Chandrabhan @ Chanua, Ramveer, Shyam Sunder, Jagat singh, Ramavtar, Ram Prasad, Babli, Banwari, Ghanshyam and Pritam. Accused Chandrabahn, Ramveer, Shyam Sunder, Jagat Singh, Ramavtar were having iron rods in their hands and rest of the accused were having lathis in their hands. His father was brutally beaten up

and the said incident was witnessed by his uncle Ramniwas, Ajeet and his cousin Mahesh. The victim Devi Ram @ Pappa was taken to hospital. In a second incident, some of the accused persons reached to Village Mullaka, where an assault was made over the family members of the victim. It is alleged that amongst several other persons, the petitioner was also a member of an unlawful assembly.

4. It is contended on behalf of the accused-petitioner that no case for the alleged offences is made out against him and his incarceration is not warranted. There are no factors at play in the case at hand that may work against grant of bail to the accused-petitioner and he has been made an accused based on conjectures and surmises.

5. Contrary to the submissions of learned counsel for the petitioner, learned Public Prosecutor and counsel for the complainant opposes the bail application and submits that the present case is not fit for enlargement of accused on bail.

6. I have heard and considered the submissions made by both the parties and have perused the material available on record.

7. After careful scanning of the material available on record, it is revealed that there were two separate incidents out of which in one incident, Devi Lal @ Pappa, the father of the complainant was all alone on a Motorcycle Splendor and he was going to Village Kama from his village Mullaka. In the midway, between the Govt. Hospital, Kama and the Dak Bungalow, Kama, ten persons made an assault upon him, as a consequence of which, he received several injuries and ultimately succumbed to death wherein in the second incident, which was taken place at Village Mullaka, some of the accused persons allegedly made an assault upon the other family members of the victim. The time and place of both the incidents are different and rather it is not discernable that at what point of time the second incident took place. Although the name of the petitioner is mentioned in the second incident which took place at Village Mullaka but none of the victim of this incident received grievous injuries or injuries which are dangerous to life.

8. Considering the overall facts and circumstances of the case and looking to the nature of the incident, the previous incident and inclusion of several other

persons in the second incident, it is felt that the genuineness of the crime can only be discernible after the entire evidence would be brought on record and that task would be undertaken by the learned trial Judge. As on date, what is revealing that the petitioner was not present at the crime scene in which deceased Devi Ram received fatal injuries. Indisputably, no specific role has been assigned to the petitioner in causing injuries to the deceased. His name finds place in a separate incident in which neither any fatal injuries is complained nor serious allegations are levelled against him.

9. The another aspect of the matter is that the petitioner is behind the bars since a long and there are several prosecution witnesses out of which a very few could have been examined till date. It is a firm view of this Court that an under trial prisoner cannot be incarcerated for an indefinite period. Only a reasonable time can be granted to the prosecution to prove its case and at the same time, the accused cannot be left languishing in jail for want of evidence against him as he required to be presumed innocent until the guilt is proven.

10. Normally, trial of a sessions case is completed within a period of one year from its commencement, however, for some unavoidable and inevitable circumstances, the period can be extended but keeping the accused detained in jail for around three and half years for the purpose of production of evidence is detrimental to the interest of accused detained in jail.

10. This Court has made an elaborate discussion with regard to bail of an under trial accused on the ground of delay in culmination of the trial. This Court feels that if the accused is under detention, it is obligatory for the prosecution to complete the trial within a reasonable period. Dealing with the identical issue where the trial had been protracted for unreasonable period, an elaborate discussion has been made by this Court while deciding the S.B. Criminal Misc. Bail Application No.5916/2023 in the matter of **Lichhman Ram @ Laxman Ram Vs. State** the relevant part of which would be apt to reproduce here which read as under:-

7. This Court feels that the nature and gravity of offence and availability of material in support thereof are not the only factors to be taken into account while

considering a bail application. The fact that trial is to be concluded within a reasonable period of time is imperative while considering grant of bail to an accused. It is settled principle of criminal jurisprudence that there is presumption of innocence at the pre-conviction stage and the objective for keeping a person in jail is to ensure his presence to face the trial and to receive the sentence that may be passed. This detention is not supposed to be punitive or preventive in nature. An accused is considered to be innocent until he or she or they are proven guilty in the court of law.

8. As per the fundamental rights granted to every citizen/person by the Constitution of India, the accused cannot be expected to languish in custody for an indefinite period if the trial is taking unreasonably long time to reach the stage of conclusion. An under trial prisoner, who is waiting for the trial to complete and reach a conclusion about his guilt for the alleged crime, is not only deprived of his right to a speedy trial but his other fundamental rights like right to liberty, freedom of movement, freedom of practising a profession or carrying on any occupation, business or trade and freedom to dignity are also hampered.

9. Life without liberty is like a body without soul. Freedom is the open window through which pours the sunlight of the human spirit and human dignity. Personal liberty of the accused is sacrosanct and quintessential to the very spirit and structure of a civilisation. Jeremy Bentham, the great English jurist, postulated that the greatest happiness of the greatest number is the end of law. The concept of civil liberty is embedded in individualism. This simply means that the purpose of the state is to help every individual in reaching their highest development and evolving into the best personality, thereby reaching a point where law and state are not required by the society. Thus, when personal liberty of an individual is threatened, his development is in peril which is a matter of great

concern. Sir William Blackstone has deftly observed on page 134 of the first volume of his book, **'Commentaries on the Laws of England'** that,

"Personal liberty consists in the power of locomotion, of changing situation or moving one's person to whatsoever place one's own inclination may direct, without imprisonment or restraint unless by due process of law".

*Justice cannot be presumed to have been administered merely on passing of a judgment of conviction and order of sentence or a judgment of acquittal; rather administration of justice shall be deemed to have been completed when the trial is concluded within **a reasonable period of time** and the accused as well as the complainant/victim are not made to wait for years on end to know the result of the trial.*

10. One of the founding fathers and the Third President of them United States of America, Thomas Jefferson, has rightly said that, "Rightful liberty is unobstructed action, according to our will, within limits drawn around us by the equal rights of others." Though the victim/complainant party has the right to seek justice against an accused person but that does not mean that the right of the accused to a fair trial can get hampered. A fair trial is one which is concluded within a reasonable period of time.

*11. It is not just a fundamental right but also a human right of every accused as incarceration for an indefinite period pending trial is in contravention of the universal rights that are imperative for us all sans any kind of discrimination. Justice P.N. Bhagwati has embodied the spirit of the aforementioned observation in **Maneka Gandhi Vs. Union of India (UOI) and Ors.** reported in AIR 1978 SC 597 in the following words:*

"The expression 'personal liberty' in Article 21 is of the widest amplitude and it covers a variety of rights which go to constitute the personal liberty of man and some of them have raised to the status of distinct fundamental rights and given additional protection under Article 19."

12. No one is unaware of the fact that justice delayed is justice denied. On one hand, if a victim has to wait for years to see the perpetrator get his due and on the other hand, if the accused is innocent and it is so decided that he was not guilty for the crime as alleged by the prosecution, then there is no justifiable answer that can put out the fire that has been burning in the minds of the parties since the very inception of the criminal proceedings.

13. A petition for issuance of a writ of habeas corpus was filed in **Hussainara Khatoon & Ors. Vs. Home Secretary, State of Bihar, Govt. of Bihar, Patna** reported in 1979 SCR (3) 169, praying for the release of a large number of men, women and children that were languishing in jails in Bihar for offences which if found guilty, were punishable by a sentence of not more than few months. Following the creative deliverance passed in the case of **Maneka Gandhi (supra)** which expanded the scope of interpretation under Article 21 of the Constitution of India, the right to a speedy trial was interpreted as being implied in the broad gamut of rights that are borne out of right to life and personal liberty enshrined under Article 21. Justice Bhagwati further expressed his anguish over the fact that the bail system of India works on the rusty assumption that monetary loss will deter an accused from fleeing from justice and thus, it operates harshly against the poor and indigent persons of the society. The burden of the period of detention falls on the innocent people who are the members of the family of the accused. **A set of guidelines were issued by the Apex Court in this case to ensure that the courts subordinate to each of the High Courts take lesser time to reach a legitimate conclusion in a trial and that there should be greater access to bail along with humane living standards for the under-trials.**

14. Subsequent to **Hussainara Khatoon (supra)**, Hon'ble the Supreme Court held that the right to speedy trial is available at all the stages, be it the stage of investigation or inquiry, trial, appeal, revision and even retrial, in **Abdul**

Rehman Antulay & Ors. Vs. R.S. Nayak & Ors., reported in AIR 1992 SC 1701. In addition to the above, it was also held that a time limit cannot be set for the conclusion of trial as there are many factors that impact the right to speedy trial and the facts and circumstances of each case need, to be considered separately. An order for conclusion of trial within a fixed time is possible in specific cases where the circumstances and nature of offence demand it but a fixed time limit for all the trials cannot be imposed.

15. In the case of **Sanjay Chandra v. CBI**, reported in AIR 2012 SC 830, Hon'ble the Supreme Court had observed that as the investigation is complete and charge sheet has already been filed by the investigating agency, there remains no necessity to keep the accused in custody for further investigation. Being cognizant of the fact that the alleged offences were such that if proved, they could cause peril to the Indian economy, still Hon'ble the Supreme Court upheld the right of an under-trial prisoner to be released on bail. In S.B. Criminal Miscellaneous IV Bail Application No.14677/2021 titled as **Banwari Meena v. State of Rajasthan**, this Court has passed an elaborate order in similar context holding that it is a well-established canon of criminal law that there is presumption of innocence at the pre-conviction stage and the, objective for keeping a person in jail is to ensure his presence to face trial and to receive the sentence that may be passed. This detention is not supposed to be punitive or preventive in nature. In another case titled **Savanta v. State of Rajasthan** (S.B. Criminal Miscellaneous VII Bail Application No. 3701/2022), this Court has held that over-incarceration of undertrial prisoners, beyond reasonable period of time, is violative of their fundamental right to a fair and speedy trial. Any trial that is deemed fair should conclude in a reasonable period of time.

16. While keeping an accused detained, the opportunity to the prosecutor to lead evidence can only be given for a reasonable period. The wider connotation of the phrase 'reasonable period' be understood to be one year because the case is classified as a sessions case which would mean

that the like cases should commence and conclude within a session, that is, one year. Even if an elastic interpretation of the expression 'reasonable period' is taken on the pretext of certain unavoidable circumstances, then it can only be doubled and even in that situation, trial has to be completed within two years while keeping an accused in custody. Suffice it would to say that for the purpose of determination as to whether the accused is guilty or not, only a reasonable period can be awarded to the prosecutor if the accused is behind the bars. The cases which are classified as session case are purposefully directed to be heard by senior officer of District Judge Cadre looking to his experience and rank/grade/post. In criminal jurisprudence prevalent in India, there is a presumption of innocence working in favour of the accused until he is proven guilty in the trial. The trial is conducted for the purpose ofm affording an opportunity to the prosecutor to prove the charge and only for the purpose of proving guilt or adducing evidence on record, an unreasonable period of time cannot be granted as the same infringes the fundamental rights of an accused which are otherwise guaranteed by the Constitution of India. While entertaining a bail plea, the court of law is required to take into account the above-mentioned aspect of the matter as well besides the gravity of offence and quantum of sentence. After pondering over the legal provisions made in the code of Criminal Procedure, the law enunciated by Hon'ble the Supreme Court through plethora of judicial pronouncements and upon deliberation of bail jurisprudence, it is understood that the only thing which a court of law is to ascertain while entertaining a bail plea is whether the accused should be allowed to come to the court to attend the judicial proceeding from his home and he may be allowed to remain with his family and within the society on the specific condition that on the stipulated date of the hearing of the case, he will willfully attend the court proceeding or he is such a person that even in the pending trial, he should be detained, should not be allowed to visit his family and should be lodged at a specified place of detention so that on the day of hearing, he may be

brought to the court from the jail. In other words, it is to be decided whether he may be allowed to eat, sleep and live with his family like a man ordinarily does or he may be allowed to eat, sleep and live in the jail. It all boils down to this that whether the Court wishes to allow the accused to come to the court to attend the proceedings from his home upon furnishing his bonds and surety of independent person(s) or the court thinks that he cannot be allowed to roam free and therefore, he should be detained so that he may be brought before the court on the day fixed for the hearing. This Court is of the considered view that this is the only thing which is to be thought over and to be ascertained while entertaining a bail plea. The main object of keeping a person behind the bars pending trial is nothing more but to ensure a smooth, unhindered, fair and speedy trial and that he may be present to receive the sentence as may be passed.

17. Courts should not lose sight of the fact that pre-conviction detention has some punitive implications and the purpose of detention before conviction is to secure their presence at the trial and ensure their personal attendance in cases where necessity dictates their arrest and jail is the exception not the rule.

18. The Hon'ble Supreme Court has recently passed a judgment in Criminal Appeal No(s). 1525 of 2021 titled as **Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya v. National Investigation Agency** vide order dated 01.12.2021 wherein looking to the aspect that the fundamental right of the undertrial prisoner to have a timely trial was getting violated due to long and, indefinite period of incarceration, the trial court was directed to grant the benefit of post-arrest bail in favour of the appellant.

19. In **Union of India (UOI) Vs. K.A. Najeed**, reported in AIR 2021 SC 712, Hon'ble the Supreme Court upheld the order of the High Court of Kerala granting bail to an accused and observed that had it been a case at the threshold, the Hon'ble Court would not have paid heed to the respondent's prayer but looking to the length of time

that the accused has already spent in jail and the likelihood of the trial taking still more time to conclude, they agreed that the High Court was not left with any other option but to release the accused on bail. The relevant portion of the judgment is reproduced as below:

"An attempt has been made to strike a balance between the Appellant's right to lead evidence of its choice and establish the charges beyond any doubt and simultaneously the Respondent's rights guaranteed under Part III of our Constitution have been well protected."

20. In another recent case of **Satender Kumar Antil Vs. Central Bureau of Investigation & Ors.**, reported in AIR 2022 SC 3386, Hon'ble the Supreme Court took cognizance of the fact that the jails of the country are over-flowing with prisoners and that arrest, being a draconian measure that curtails the liberty of the arrested individual, should be used sparingly. It was also observed that accused can be considered for enlargement on bail on the basis of unreasonable delay being one of the grounds. The Apex Court classified offences into four broad categories and prescribed guidelines with respect to following statutory law as well as precedents laid down by the Apex Court with regard to Sections 41 & 41A, 87 & 88, 167, 170, 309(1) among others, with the expectation that it would help in unclogging the prisons and result in reduction of pendency of bail applications.

21. The inmates who have spent years on end to see what has been decided in their case have probably resigned to their ill fate and become used to the confines of the four walls of the prison. It reminds this Court of the reference made to Dr. Manette's predicament in the Charles Dickens' novel '**A Tale of Two Cities**' by Hon'ble the Supreme Court in **State of Kerala Vs. Raneef**, reported in AIR 2011 SC 340 while dismissing the appeal filed against grant of bail to the accused who was a doctor and had already spent 66 days in custody. In the book, Dr. Manette had spent such a long time of eighteen years as an inmate that he forgot his name, profession and other details about his life that

existed prior to him becoming a prisoner at La Bastille. This Court is anxious over the fact that jails debilitate the under-trial prisoners and if after the long wait, the accused is ultimately acquitted, then how would the long years spent by the under-trial in custody be restored to him/her/them. The fact that the imprisonment of a family member affects the whole family cannot be overlooked and if long incarceration pending trial is considered to be harsh on the accused, then it should also be considered to be equally harsh on the family members of the accused. The rule is that pre-conviction detention is not warranted by law.

22. There have been repetitive pronouncements by this Court as well wherein considering the fact of long incarceration inter alia other aspects, bail has been granted to accused persons. Indisputably, the petitioner has been in custody since long and the protracted trial will violate his fundamental right to a timely trial. 23. In Writ Petition (Criminal) No 279 of 2022, titled **Mohammed Zubair Vs. State of NCT of Delhi & Ors**, while granting bail to the accused vide order dated 20.07.2022, the Apex Court observed that the accused was trapped in a vicious cycle of the criminal process where the process had itself become the punishment.

24. Similarly, in cases where under-trial prisoners are made to wait and the trial is prolonged, the procedure of criminal proceedings itself becomes a punishment for such detainees. If the provisions laid down in the Code of Criminal Procedure are followed to the letter and not just in spirit, there will be lesser room for grievance related to speedy trial. Having noted the significance and development of the right to speedy trial, it is also important to consider the following factors while adjudicating a bail application against the backdrop of the right to a speedy trial:

- i) The delay should not have been a defence tactic. Who has caused the delay is also to be seen. Every delay does not necessarily prejudice the accused.

ii) *The aim is not to interpret the right to speedy trial in a manner so as to disregard the nature of offence, gravity of punishment, number of accused and witnesses, prevailing local conditions and other systemic delays.*

iii) *If there is a strong reason to believe that the accused will surely flee from justice if released on bail and it will be a hard task for the investigating agency to re-apprehend him, then the benefit of bail should not be extended in his favour.*

iv) *If it is shown by placing compelling material on record that the release of the accused may create a ruckus in the society or that he will create such a situation wherein the prosecution witnesses will not come forward to depose against him or that he may otherwise hamper the evidence of prosecution in any other manner, then utmost caution needs to be exercised in such cases before granting bail to the accused.*

The (iii) and (iv) points are to be considered only when strong and cogent evidence is placed on record or a compelling reason in support has come to light but surely not just on the basis of a simple, blanket submission made by the counsel appearing on behalf of the prosecution/complainant/victim.

*25. While hearing a bail plea, if there appears the slightest possibility of acquittal of the accused based on any of the **submissions made by counsel for the parties, then there is no** harm in inclining towards extending the benefit of bail in favour of the accused so far as it is limited to the justifiable disposal of the bail. It is a settled principle of law that the defence is not required to prove its case beyond reasonable doubt and it can rely on the principle of preponderance of probability. In juxtaposition, the burden to prove its case beyond reasonable doubt always lies upon the prosecution except in exceptions prescribed by law. Thus, whenever a doubt is raised against the story of the*

prosecution, it needs to be considered objectively but needless to say, it is to be considered only for the limited purpose of deciding the bail application and should not influence the trial court so as to adversely affect the interests of either of the parties in any manner.

26. While adjudicating a bail plea, the Court should never assume that the case put forth by the prosecution is sacrosanct and true and the accused is guilty; however, the same does not mean that the case of the prosecution should be approached with an initial presumption of doubt. Suffice it to say that if a substantial plea is raised at the time of praying for bail, it can be considered tentatively for the purpose of granting bail at that stage, without deeply speculating the result of the trial as a dead end. In addition, if material is placed on record, it needs to be considered.

27. Coming back to the point of protracted trial and consequent expansion of period of incarceration, this Court is of the firm view that the accused should be released on bail if he has been incarcerated pending trial for more than a reasonable period of time unless extraordinary and overwhelming circumstances prevent the Court from doing so.

28. The procedure of law is that the exact date of imprisonment would commence from the judgment of conviction and the date of order of sentence. The further provision of law is that the period already undergone would be set off against the period of sentence. The purpose of keeping the accused behind bars is to ensure that the accused would not flee from justice and to avoid the apprehension that he may hamper the witnesses or tamper with the prosecution evidence. True it is that the gravity of offences and severity of punishment attached with the crime form vital parts of consideration while adjudicating a bail plea but the period of incarceration pending trial must be a reasonable period. It is the duty of the prosecutor as well as of the Court to ensure that the prosecution evidence is produced within a reasonable period which must not be an unfair and unjust. In order to justify period of incarceration pending trial, the aid of provision for setting

off period of incarceration suffered pending trial with the term of imprisonment decided by the convicting Court in the order of sentence cannot be taken in cases where the trial went on for a long period of time and ultimately resulted into acquittal.

29. The right to be freed from detention and get a fast culmination of trial are liberties that every accused should be able to enjoy and in cases where the delay is not caused at the hands of the accused, he bears the brunt of the follies of the criminal justice system.

*30. The right to speedy trial has developed to become an inalienable fundamental right guaranteed under Article 21 of the Constitution of India by way of a slew of judgments passed by Hon'ble the Supreme Court, however, it has been prevalent since times immemorial and finds mention even in the **Magna Carta Libertatum** commonly called Magna Carta, the royal charter of rights agreed to by King John of England in around 1215 A.D. Among other conventions and precedents, the text of Magna Carta was one of the major inspirations that laid the basis for English Common Law and the pre-eminent English luminaries like Lord Macaulay and Sir James Stephen drafted our criminal legislation and statutes. Clause 40 of the Magna Carta which reads as "To no one will We sell, to no one will We deny or delay, right or justice", paved the way for right to habeas corpus as well as the idea of adjudication by the jury or the equals of the accused. The idea that no accused person can be detained indefinitely during the pendency of trial also sprang up from this clause.*

31. The matter needs to be looked at from a humanitarian lens also. The accused is spending his time as an under-trial in prison where the living conditions are depressing and pitiable. The bellies of prisons all across the country are bloated due to the humongous influx of prisoners in India. The prisons are overcrowded to an unimaginable extent. Nelson Mandela was the torch-bearer of the movement against apartheid in South Africa and he had the following words to say about his fabled incarceration at the Robben Island Prison from 1964 to 1982:

"No one truly knows a nation until one has been inside its jail. A nation should not be judged by how it treats its highest citizens, but its lowest ones."

Any prison that was built with the infrastructure to hold a certain number of prisoners would be overpopulated and congested if it would be required to house a percentage of prisoners which is way beyond its capacity. Prisoners in India sleep in turns as there is no space for all of them to sleep at the same time. They are packed like sardines in the cells and are deprived of basic needs like balanced diet, sanitation, sewage, hygiene etc. From food and ration to commodities like soap, detergent, toothpaste etc., everything is provided by the state in measured quantities for the number of prisoners that the prison is designated to hold and not for the number of prisoners that it actually holds in reality. In such cases, an under-trial prisoner cannot be subjected to such harsh and inhuman conditions for eons.

32. The Amnesty International India's Report titled Justice Undertrial: A Study of Pre-trial Detention in India reveals that as of 2019, 69% of the prisoners in Indian prisons are undertrials which means that the under-trial prisoners are more than twice in number than the convicted prisoners. As per the report, the average occupancy rate of Indian jails is 114%. There are very few prisons that are equipped and able to decide which under-trial prisoners are eligible for release under Section 436A of the CrPC. As per the Prison Statistics India 2020 published by the National Crime Records Bureau (Ministry of Home Affairs), Government of India, 76.12% of the total prisoners across the country are under trial prisoners. Nothing can be assumed about the life expectancy of an accused, rather if an accused is made to stay in prisons in such miserable conditions, it would lead to more health problems and impair the health of the accused person. While sharing his thoughts about his experience in jail, Mahatma Gandhi had once said, "Men in prison are 'civilly dead' and have no claim to any say in policy." Ours is not a despotic nation rather it is a democratic nation which

proudly upholds the liberties of its citizens. Despite Supreme Court guidelines, legal and executive reforms, there is no significant improvement in the state of the under-trials.

33. Law and society go hand in hand. A lawless society is no better than a jungle. Right to life is not a bare right; it means right to a dignified life and personal liberty and includes in its ambit all aspects that help a person lead a life of dignity. Any law which does not accommodate or adapt to the evolution of the society seizes to serve its purpose. When a person is detached from the society and put in jail, he goes through a big change of social environment. The present petitioner has spent seven long years in prison while he awaits the verdict of his ongoing trial. Though he has not yet been proved to be guilty but he has spent all the seasons of last seven years in the jail precinct; he has not been a part of any social gathering, major family events, festivals and like occasions for seven years and if he is finally acquitted after culmination of trial then no court can give him back the time and reputation that he has lost. There is no way to recompense the accused who has spent a prolonged period pending trial in case there is an acquittal waiting for him at the end of a seemingly endless journey. No concept of solatium to an under trial prisoner in case of acquittal exists in the statutes of our country. Moreover, it is pertinent to note that if under trial prisoners are released looking to the facts and circumstances of the case, then there can be more space for the inmates and better living standards in the jails. For instance, if a jail is built to house 100 inmates only but it is overcrowded to the extent of housing 200 inmates, then release of under trial prisoners post consideration of relevant factors would result in improved living conditions for all prison mates.

34. Considering the above observations, specially the right to speedy trial being a fundamental right, the overcrowdedness and a skewed prison-prisoner ratio and the rightful object of detaining an arrestee and in light of the guiding pronouncements of the Apex Court on this issue;

this Court feels persuaded to take a liberal approach to grant bail to the accused without deeply diving into the niceties of the matter as well into the nature and gravity of the offence. The long period of detention spent by the accused in custody awaiting trial without any hope of conclusion of trial in the near future has shaken the conscience of this Court and thus, ends of justice would meet in releasing him on bail. Needless to say, the above observations are limited to the justifiable disposal of the present bail application and shall not influence the trial judge in any manner so as to adversely affect the rights of either of the parties.

In view of the enunciation made regarding provisions for bail and looking to the fact that the petitioner is behind the bar since last around three and half years and noticing that culmination of trial in a near future is not a seeming fate and considering the overall facts and circumstances, this Court is of the view that nature and gravity of offence alone are not required to be considered at the time of granting bail but at the same time, it has to be ensured that the trial has to be concluded within a reasonable period if the accused in languishing in jail therefore, without going into the niceties of the matter it is felt that the right of the accused to have a speedy trial should be protected. There is high probability that the trial may still take a long time to conclude. In light of these facts and circumstances, it is deemed suitable to grant the benefit of bail to the petitioners.

11. Accordingly, the instant bail application under Section 439 Cr.P.C. is allowed and it is ordered that the accused-petitioner as named in the cause title shall be enlarged on bail provided he furnishes a personal bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the learned trial Judge for his appearance before the court concerned on all the dates of hearing as and when called upon to do so."

7. After Sahab Singh was released on bail, two other accused persons namely Rameshwar and Harichand were also extended the benefit of bail. The case of the present

petitioners are in no manner distinguishable to the case of the above mentioned accused persons. Thus, to maintain judicial discipline, consistency in judicial orders and on the ground of parity these petitioners too deserve concession of bail.

8. I have considered the submissions made by both the parties and have perused the material available on record. There is high probability that the trial may take long time to conclude. In light of these facts and circumstances, it is deemed suitable to grant the benefit of bail to the petitioners in the present matter.
9. Accordingly, the instant bail applications under Section 483 BNSS are allowed and it is ordered that the accused-petitioners as named in the cause title shall be enlarged on bail provided each of them furnishes a personal bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the learned trial Judge for their appearance before the court concerned on all the dates of hearing as and when called upon to do so.
10. A copy of this order be placed in each file.

(FARJAND ALI),J