CRM-M-28141-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28141-2025
Reserved on: 01.07.2025
Pronounced on 31.07.2025

Suraj Kumar ...Petitioner

Versus

State of Punjab and others …Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.S. Gill, Advocate
for the petitioner.

Ms. Navreet Kaur Barnala, AAG, Punjab.
for respondent No.1.

Mr. Naveen Kumar Sheoran, DAG, Haryana.
for respondent No.2.

Mr. Manish Bansal, PP, UT Chandigarh, and
Mr. Navjit Singh, Advocate
for respondent No.3-UT Chandigarh.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
11	16.01.2025	City Sangrur, District Sangrur, Punjab	331(4), 305, 112, 317(2), 238 BNS, 2023

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. In paragraph 6 of the bail petition, the accused declares has the following criminal antecedents:

Sr. No.	FIR No.	Year	Offenses	Police Station
1	44	2024	457, 380 IPC	City Sangrur
2	45	2024	457, 380 IPC	City Sangrur
3	145	2024	457, 380 IPC	City Sangrur
4	192	2024	331(4), 305 BNS	City Sangrur
5	226	2024	331(4), 305 BNS	City Sangrur
6	9	2025	331(4), 305 BNS	City Sangrur
7	265	2024	379-B, 34, 201 IPC	City Sangrur

3. The facts and allegations are being taken from the copy of FIR annexed with the petition, as per which the petitioner allegedly stole a sports bicycle and a pair of shoes, of which the bicycle was duly recovered.

4. The petitioner's bail application No. BA/61/2025 was dismissed on February 3, 2025, as withdrawn by the Chief Judicial Magistrate, and his bail application number BA-630/04.03.2025 was dismissed on merits by the Additional Sessions Judge on March 18, 2025.

5. The alleged theft was captured on CCTV, in which the thief had concealed his identity with a muffler. The FIR was registered after a delay of 10 days. Ld. Additional Sessions Judge denied bail on the grounds of recidivism, disregarding the sketchy evidence and the long, unexplained delay in the registration of the FIR, and overlooking the presumption of innocence.

6. It is the foundational global jurisprudence in criminal law that an accused cannot be presumed guilty before the establishment of guilt.

7. After that, the petitioner came up before this Court, and when on 27 May 2025, the matter was first posted before this Court, the petitioner had already incarcerated for around four months of custody, for stealing a bicycle, which was recovered during investigation, and a pair of shoes, which he might be needing to wear and this Court granted interim bail to the petitioner, which remains in effect to date. During the interregnum, there is no allegation against the petitioner violating any of the bail conditions. Given above, the petitioner makes out a case for confirmation of the interim order.

8. The penal offences under BNS, 2023 mentioned in FIR are Sections 331(4), 305, 112, 317(2), 238, and none of the allegations captioned above would attract any offence that provides for capital punishment; or ten years, and thus the concerned sub-section of Section 238 is impliedly S. 238(c), which is triable by a Magistrate. Thus, all the offences arraigned in the FIR were triable by the Magistrate, and despite that, the Ld. Counsel withdrew the bail application from the Court of CJM, and when he filed for bail before the Sessions Court, the Additional Sessions Judge dismissed the same.

9. After withdrawal of the bail before the CJM, the petitioner had filed an application for regular bail before the Sessions Court, which was assigned to Additional Sessions Judge.

10. It is unbelievable that any Counsel would voluntarily withdraw bail in such a minor offence, and further, it would have been real justice had the CJM not permitted the Counsel to withdraw and instead granted bail. This apparently poor person had to spend more than three months and twenty days in jail for stealing a bicycle and a pair of shoes, and the incarceration is much longer if he had pleaded guilty, based on one-sided, unproven allegations, all for the sake of early release because of the failure of system.

11. This Court is more concerned with the fear that plagues the Magistrates from

granting bail. Perhaps it is the lack of assurance and the requisite support from the higher judiciary that instills a lack of confidence and has created a tendency among Magistrates not to grant bail even in cases that are triable before them and are not heinous.

12. However, in order of rejection of the bail petition passed by the Additional Sessions Judge, the primary reason cited was the petitioner's criminal antecedents. Given the above, this Court, while granting interim bail vide order dated 27 May 2025, had framed the following legal propositions: -

> "i) What are the scope and powers of Chief Judicial Magistrate/Judicial Magistrate to grant bail in cases triable by them?
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> ii) If accused is habitual offender, then would such recidivism affects the powers of Chief Judicial Magistrate/Judicial Magistrate to grant bail to such an accused?"

13. This Court proposes to start with the second proposition.

14. In Maulana Mohd Amir Rashadi v. State of Uttar Pradesh and another, (2012) 2 SCC 382, the Hon'ble Supreme Court holds,

> [10] It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most of the cases ended in acquittal for want of proper witnesses or pending trial. As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.

15. Although crime is to be despised and not criminal, for a recidivist, the contours of a playing field are marshy, and the graver the criminal history, the slushier the puddles, and the more difficult the terrain. A recidivist often operates on unstable grounds, where the burden of a substantial criminal record complicates matters further. One key factor is the likelihood that the bail petitioner will reoffend after being released. However, the evaluation must not be clouded by judgmental bias, and the assessment must not be tainted by indelible arbitrariness, as arbitrariness is antithetical to the rule of law.

16. While considering criminal history, it must include cases where the accused was convicted, as well as suspended sentences and all pending First Information Reports, in which the bail petitioner is arraigned as an accused. When reckoning the number of cases in criminal history, cases resulting in acquittal or discharge, or when Courts have quashed the FIRs, dismissed the prosecution, or the prosecution is withdrawn, or a closure report has been filed, should not be included.

17. Adjudicating a bail petition of a recidivist places a significant and demanding responsibility on the Courts to exercise judicial discretion by considering the accused's freedom and that of society due to the likelihood of reoffending. Still, where the offense

for which bail is sought is not grave, or heinous, or is subject to some special riders, and when such arrest is generally unwarranted, or acquittal is inevitable, Courts must not deny bail even to the recidivists solely as a punitive measure intended to serve as a pre-trial deterrent. Such a method violates the judiciary's duty to uphold the core principles of justice and fairness.

18. In conclusion, even if the accused is a habitual offender, such recidivism would not affect the powers of the Chief Judicial Magistrate or Judicial Magistrate to grant bail. However, criminal history will be an additional factor for consideration before granting bail.

19. The powers of the Magistrate to grant or refuse bail flow from Sections 478, 480, and 187(3) BNSS, 2023.

20. Section 480 BNSS read as follows:

> S. 480. (1) When any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but—
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> (i) such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;
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> (ii) such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a cognizable offence punishable with imprisonment for three years or more but less than seven years:
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> Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is a child or is a woman or is sick or infirm:
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> Provided further that the Court may also direct that a person referred to in clause (ii) be released on bail if it is satisfied that it is just and proper so to do for any other special reason:
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> Provided also that the mere fact that an accused person may be required for being identified by witnesses during investigation or for police custody beyond the first fifteen days shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court:
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> Provided also that no person shall, if the offence alleged to have been committed by him is punishable with death, imprisonment for life, or imprisonment for seven years or more, be released on bail by the Court under this sub-section without giving an opportunity of hearing to the Public Prosecutor.
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> (2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a

non-bailable offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, subject to the provisions of section 492 and pending such inquiry, be released on bail, or, at the discretion of such officer or Court, the execution by him of a bond for his appearance as hereinafter provided.

(3) When a person accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under Chapter VI, Chapter VII or Chapter XVII of the Bharatiya Nyaya Sanhita, 2023 or abetment of, or conspiracy or attempt to commit, any such offence, is released on bail under sub-section (1), the Court shall impose the conditions,—

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter;

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected; and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence, and may also impose, in the interests of justice, such other conditions as it considers necessary.

(4) An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2), shall record in writing his or its reasons or special reasons for so doing.

(5) Any Court which has released a person on bail under sub-section (1) or sub-section (2), may, if it considers it necessary so to do, direct that such person be arrested and commit him to custody.

(6) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.

(7) If, at any time, after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond for his appearance to hear judgment delivered.

21. By exercising the powers conferred under S. 480(1) of BNSS, any Chief Judicial Magistrate or Judicial Magistrate can release an accused on bail in all offenses; however, when the sentence prescribed is death or imprisonment for life, then strictly in terms of S. 480(1)(i), or if such accused has previously been convicted of an offense punishable by death, life, or seven years or more and/or has been convicted twice or more than two occasions for an offense punishable by three years or more as mentioned under Section 480(1)(ii), then the Magistrate has the power to grant bail when the accused is a child, woman, or is sick or infirm, in any cognizable offense in terms of S. 480, or after recording their satisfaction and by mentioning special reasons. Provided that if the

maximum sentence prescribed is death or imprisonment for life, and for more than seven years, an opportunity must be given to the Public Prosecutor for a hearing.

22. In Rasiklal v. Kishore s/o Khanchand Wadhwani, (2009) 4 SCC 446, the Hon'ble Supreme Court holds,

> [9]. …There is no doubt that under Section 436 of the Code of Criminal Procedure a person accused of a bailable offence is entitled to be released on bail pending his trial. As soon as it appears that the accused person is prepared to give bail, the police officer or the court before whom he offers to give bail, is bound to release him on such terms as to bail as may appear to the officer or the court to be reasonable. It would even be open to the officer or the court to discharge such person on his executing a bond as provided in the Section instead of taking bail from him.
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> [10]. The position of persons accused of non-bailable offence is entirely different. The right to claim bail granted by Section 436 of the Code in a bailable offence is an absolute and indefeasible right. In bailable offences there is no question of discretion in granting bail as the words of Section 436 are imperative. The only choice available to the officer or the court is as between taking a simple recognizance of the accused and demanding security with surety. The persons contemplated by Section 436 cannot be taken into custody unless they are unable or willing (sic unwilling) to offer bail or to execute personal bonds. There is no manner of doubt that bail in a bailable offence can be claimed by the accused as of right and the officer or the court, as the case may be, is bound to release the accused on bail if he is willing to abide by reasonable conditions which may be imposed on him.

23. When any person accused of an offence is produced before a Magistrate by any investigating agency, and after going through the allegations/ inquiry/ investigation, if carried out, the Magistrate finds all the offences to be bailable, the Magistrate cannot accept custody of such an accused, and instead must direct the investigator to release such a person on bail by writing a note for the investigator's file or through any other means, including digital.

24. In Prahlad Singh Bhati v. NCT, Delhi and another, (2001) 4 SCC 280, decided on 23-03-2001, the Hon'ble Supreme Court holds,

> [6]. Even though there is no legal bar for a Magistrate to consider an application for grant of bail to a person who is arrested for an offence exclusively triable by a Court of Session yet it would be proper and appropriate that in such a case the Magistrate directs the accused person to approach the Court of Session for the purposes of getting the relief of bail…
>
> [7]. Powers of the Magistrate, while dealing with the applications for grant of bail, are regulated by the punishment prescribed for the offence in which the bail is sought. Generally speaking if punishment prescribed is for imprisonment for life and death penalty and the offence is exclusively triable by the Court of Session, the Magistrate has no jurisdiction to grant bail unless the matter is covered by the provisos attached to S. 437 of the Code. The limitations circumscribing the jurisdiction of the Magistrate are evident and

> apparent. Assumption of jurisdiction to entertain the application is distinguishable from the exercise of the jurisdiction.

25. In State of Maharashtra v. Kaushar Yasin Qureshi and another, (1996) 2 MahLJ 485, decided on 3-4-1996, Bombay High Court, referring to S. 437(1)(i) of CrPC 1973, which was retained in BNSS and re-numbered as 480(1)(i) observed,

> [15]. The expression reasonable grounds means grounds which are founded on reason or logic. In the context of section 437, Criminal Procedure Code this expression connotes that there should be a rational or logical basis for inferring that a person is guilty of an offence punishable with life imprisonment or death. It does not mean that merely because, on the basis of the F.I.R., the police whimsically or arbitrarily or capriciously registers a case for an offence punishable with death or imprisonment for life, a Magistrate would have no jurisdiction to grant bail, save in the exigencies contemplated in the proviso to section 437(1) Criminal Procedure Code. It is only where there are reasonable grounds to believe that a person is guilty of such an offence, would the Court of the Magistrate have the limited jurisdiction to grant bail if the case falls in the purview of the proviso to section 437(1), Criminal Procedure Code. If there are no reasonable grounds to believe that a person is guilty of an offence punishable with death or imprisonment for life the Magistrate would have jurisdiction to grant bail. But, such jurisdiction should be exercised by him after the greatest circumspection. In arriving at a conclusion whether there are reasonable grounds to believe that a person is guilty of an offence punishable with death or imprisonment for life the Magistrate should examine the question whether a prima facie case is made out or not. He should not enter into a thread-bare analysis of the prosecution case. It is only in those cases where no prima facie case is made out would it be open to the Magistrate to grant bail on the ground that there are no reasonable grounds to believe that a person is guilty of an offence punishable with death or life imprisonment.

26. In Sukumari vs State of Kerala, decided on 23-11-2000, Manu/KE/0005/2001, Kerala High Court observed,

> [8]. The above provisions would reveal that a Magistrate is not empowered to grant bail in respect of offences punishable with death or imprisonment for life as per S. 437(1)(i) of the Code. Clause (ii) of sub-s. (1) also stipulates that bail shall not be granted to cases where the accused had been previously convicted for an offence punishable with death or imprisonment for life or imprisonment for seven years or more or had been previously convicted of two or more occasions for a non-bailable and cognizable offence. The provisos to the above sub-s. (1) would make it clear that the Court has the authority or is empowered to release an accused on bail apart from the restrictions imposed under clause (i) & (ii) if the accused is a person below the age of 16, or if the accused is a lady or if the accused is an insane or infirm person or if the Court is satisfied that it is just and proper to release on any other special reasons. Thus a very reading of the above provisions would suggest that S. 437 of the Code does not create an absolute bar on the Magistrate to the grant of bail to persons accused of a non-bailable offence or in respect of offences exclusively triable by a court of sessions. A discretion is left with the Magistrate to see whether there are reasonable grounds for believing that the accused has been guilty of the offence alleged against him. Thus the Magistrate has the discretion to judge the materials on record and grant bail even if the offence is a non-bailable one or exclusively triable by a court of sessions. This court had the occasion to consider

the scope of S. 437 in granting bail to persons accused of cases triable by court of sessions. In Chellappan v. State of Kerala (1987 (1) KLT 435) this Court held that a Magistrate has jurisdiction to grant bail if the offence is not punishable with death or imprisonment for life in the alternative. This Court in Antony Cherian v. Purushothaman Pillai (1987 (2) KLT 125) held:

> "The words in S. 437(1) shall be interpreted disjunctively, if it is said that the Magistrate has no jurisdiction to grant bail in a case involving offences punishable with imprisonment for life, the discretion conferred on a Magistrate by S. 437 will stand unnecessarily restricted. Such restriction may lead to a practical consequence that in all cases (whether instituted on complaint or on police report) in which offences punishable with imprisonment for life but triable by a Magistrate of the First Class are involved in the Magistrate cannot exercise jurisdiction in favour of granting bail. Usually or atleast in most of such cases Magistrates exercise discretion in favour of granting bail. Of course, where offences punishable with imprisonment for life and triable exclusively by Court of Sessions are involved Magistrates refrain from granting bail to accused persons in such cases. The restriction imposed on a Magistrate by the legislature is that when "there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life" such person shall not be released on bail by that Magistrate." Appear reasonable ground for believing" is a situation which is far below the stage when you can say that prosecution has proved the offence beyond reasonable doubt."

The question whether the Magistrate of Judicial First Class can grant bail in respect of offences exclusively triable by court of sessions under the SC/ST (Prevention of Atrocities) Act had been considered by a Single Judge by this Court in Shanu v. State of Kerala (2000 (3) KLT 452) and held that the Judicial First Class Magistrate has jurisdiction to grant bail to persons accused of offence punishable under any of the sub-clause (1) to (XV) of sub-s. (1) of S. 3 of the above Act.

27. In Ramji v. State of Punjab, decided on 29-11-2000, 2000 SCC Online P&H 1276, Punjab & Haryana High Court had observed,

> [3]. Ordinarily, this application would have been disposed of by merely modifying the order dated 9.11.2000 and directing the petitioners to surrender before the Sessions Judge on any other date but since the question as to whether the Court of Judicial Magistrate 1st Class is entitled to grant bail in cases punishable with imprisonment for life, though it is the trial Court, would arise in a large number of cases, notice of this application was given to Advocate General, Punjab and arguments have been heard in detail.
>
> [4]. The issue which is raised in the present case is that though the offences punishable with imprisonment for life are triable by the Court of Judicial Magistrate 1st Class, the difficulty which is being faced by the Courts, according to the counsel for the petitioners, arises out of the interpretation that they are placing on the provisions of Section 437 Cr.P.C. which spells out the power of Court other than the High Court or the Court of Sessions to admit a person accused of committing non-bailable offence on bail. The relevant portion of Section 437 Cr.P.C. reads as under: xxx

> [5]. A perusal of this Section indicates that the restriction on the power of the Court is in relation to the application of bail filed by a person in whose case there appears to be a reasonable ground for believing that he is guilty of an offence punishable with death or imprisonment for life. While analysing the scope of the words 'death' or 'life imprisonment' in Mohammed Eusoof v. Emperor, AIR 1926 Rang 51, the Court had held that the prohibition against granting bail is confined to cases where the sentence is either death or alternatively transportation for life and did not extend to offences punishable with transportation for life only. Their Lordships while coming to this conclusion had observed :
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> > "It is difficult to see what principle, other than pure empiricism, should distinguish offences punishable with transportation for life from offences punishable with long terms of imprisonment; why, for instance, the detenu accused of lurking house trespass with a view to commit theft, for which the punishment is fourteen years' imprisonment should be specially favoured as against the individual who has dishonestly received stolen property, knowing that it was obtained by dacoity, for which the punishment happens to be transportation for life."
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> [6]. The above decision was cited with approval in Tularam v. Emperor, AIR 1927 Nag 53
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> [10]. In view of the aforesaid discussion, it has to be held that the bar contained in Section 437(1)(i) of the Code will have to be restricted to only those cases where the offence which the accused is alleged to have committed is punishable alternatively with 'death' or 'life imprisonment' and not in cases in which the offence is punishable with life imprisonment.
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> [11]. For the reasons recorded above, the apprehension evinced by the petitioners that this Court had passed an order on 9.11.2000 which was not implemented because of the fact that the Judicial Magistrate 1st Class would not be able to grant bail is wrong and has got to be rejected.

28. In Ram Bharoshi and others v. State of U.P. and another, 2004 SCC OnLine All 642, decided on 14-06-2004, Allahabad High Court observed,

> [13]. There are a number of offences in the Penal Code which are not punishable with death or imprisonment for life, but they are triable by the Court of Sessions, where the Magistrates invariably refuse bail, because they entertain a wrong notion that they are disentitled to grant bails in such cases, even if the case is one where bail ought to have been granted on merits.

29. An analysis of Sections 478 and 480 of BNSS in the light of the judicial precedents cited above would lead to the following outcome:

30. The powers of Chief Judicial Magistrate/Magistrate to grant bail must be understood in conjunction with the similar powers of the Sessions Court and High Court to grant bail, as outlined in Sections 482 and 483 BNSS. Section 482 BNSS applies when the accused has not been arrested, while S. 483 applies when the accused has been arrested, or surrenders. However, in the case of Section 480, the accused must either be produced before the Magistrate by the arresting agency, or confined in police or judicial

custody, or have appeared before such Magistrate before whom the accused seeks bail. Given the statutory powers of bail at all three tiers, i.e., Magistrates, Sessions Courts, and High Courts, the established practice is that Chief Judicial Magistrate/Magistrate are competent to grant bail in all cases triable by them, and also in cases defined under Sections 478, 480(1)(i)(ii) and 480(2) BNSS, 2023.

31. When the accused is in custody for any non-bailable offense, and as per the Chief Judicial Magistrate/Magistrate, there are no reasonable grounds to believe they have committed the crime, even though further inquiry is warranted, the Chief Judicial Magistrate/Magistrate must grant bail under Section 480(2) of the BNSS.

32. In the cases where an accused is in judicial custody and the bail has either been rejected by the Sessions Court or High Court or pending before them, and in-between, the investigation either absolves such an accused, proposes to file a closure report, or reduces the offences to bailable one, then the concerned Magistrate has jurisdiction and is competent and must grant bail under Section 480 BNSS, or release such an accused under Section 478 BNSS, irrespective of earlier rejection of bail by higher court(s) or its pendency in the High Court or/and Sessions Court. In the pending bail petitions, it is the responsibility of the investigating agency to inform the Higher Courts about such a release.

33. In cases triable by the Chief Judicial Magistrate/Magistrate, when the main or similarly placed accused has been granted bail by the Higher Courts, then the Chief Judicial Magistrate/Magistrate has jurisdiction and is competent to grant similar bail on parity to all other similarly placed accused or with a lesser role.

34. Even when the bail of an accused or other co-accused in the same FIR, have been rejected by the Sessions Court or the High Court on merits and/or on other grounds except on the grounds of prolonged custody or delayed trial, then the Chief Judicial Magistrate/Magistrate has the jurisdiction and is competent to grant bails on the ground of prolonged custody and the delay in trial, irrespective of the earlier dismissal of bails on other grounds except when the Higher Court(s) have expedited or time bound the trial. However, even in such cases, the Chief Judicial Magistrate/Magistrate has the power to grant bail if the accused is able to bring their case within the scope and parameters of Sections 479 and 480(7) BNSS.

35. Whenever all the victim(s) do not oppose bail and rather state before the Chief Judicial Magistrate/Magistrate in the cases triable by them that they have no objection to bail, then, after taking affidavits from such victim(s), bail should generally be granted.

36. In any case arising out of any FIR triable by Chief Judicial Magistrate/Magistrate, all the victims compromise the matter which is supported by the victim's affidavit(s), irrespective of whether the offences were compoundable or not, the

said compromise is still relevant for bail, and in all such cases, where the accused is in custody, the bail should be granted.

37. In all cases triable by Chief Judicial Magistrate/Magistrate, i.e., based on FIR or Complaint, including cases under Section 138 of NI Act, when the matter has been compromised with all the victims, then even when accused has either been declared as a proclaimed person or the proclamation proceedings have already been initiated, in the event of surrender of the said person before the concerned Court, the proclamation stands satisfied because the non-appearance is a separate penal offence under Section 174-A IPC or Section 209 BNS, 2023. Therefore, given the compromise in the primary offence, based on which proclamation was issued, such person should also be released on bail in the consequent FIR for commission of non-bailable offences punishable under Section 174-A IPC or 209 BNS, 2023.

38. Registry to send copies of this order to all Judicial Officers of the District Judiciary of Punjab, Haryana, and Chandigarh.

39. Petition allowed. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

31.07.2025
Anju Rani

Whether speaking/reasoned	YES
Whether reportable	YES