

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

210

CRM-M-17302 of 2021(O & M)

Date of decision :-27.05.2021

Tarish Vakil Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Prabhjot Singh, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab,
for the respondent-State.

SUVIR SEHGAL, J.(Oral)

The hearing of this petition has been taken up through video conferencing on account of outbreak of Covid-19 Pandemic.

Vide instant petition filed under Section 482 of the Code of Criminal Procedure, 1973, (for short - "the Code"), the petitioner has sought quashing of order dated 05.04.2021, Annexure P-7, passed by the learned Additional Sessions Judge,Fazilka vide which, the trial court has declined the application filed by the petitioner for furnishing of surety/bail bonds.

Facts, in a nutshell, are that FIR No.136 dated 24.08.2020, Annexure P-1, came to be registered on the complaint of one Sukhwinder Singh against Malkit Singh, Madan Lal and Gursahib Singh under Sections 384, 420, 34 IPC at Police Station City Jalalabad, Fazilka, on the allegation that the accused had extorted a sum of Rs.5 lacs from the petitioner and Surjit Singh under the threat that they will involve them in a false case of dealing in intoxicating substances. The petitioner was arraigned as an accused on 25.08.2020 vide General Dairy No.051, Annexure P-2, and

offence under Section 7 of Prevention of Corruption Act, 1988, was added on the allegation that the accused was a part of the gang, who had extorted the money from the complainant. Petition for grant of regular bail filed by the petitioner under Section 439 of the Code was rejected by the learned Additional Sessions Judge, Fazilka, vide order dated 03.03.2021, Annexure P-3. The petitioner, who was arrested on 18.01.2021, filed an application on 01.04.2021, Annexure P-4, seeking grant of default bail under Section 167(2) of the Code on the ground that the challan has not been presented within the prescribed period. After notice to the prosecution, the application was allowed on 02.04.2021, Annexure P-5, and the petitioner was ordered to be admitted to bail on his furnishing bail bonds in the sum of Rs.1 lac with one surety of the like amount subject to certain additional conditions. The prosecution presented the challan before the trial court on the same day. On 05.04.2021, the petitioner filed an application, Annexure P-6, for furnishing the bail/surety bonds, which has been dismissed by the order impugned herein.

Counsel for the petitioner has contended that the petitioner was granted default bail at the close of the Court hours on 02.04.2021, which was a Friday and the Courts were closed over the weekend. An application was submitted for accepting the bail/surety bonds on the next working day which has been wrongly rejected by the Court without appreciating the settled position of law.

State counsel has opposed the petition and has filed a status report by way of affidavit of the Deputy Superintendent of Police, Sub Division Jalalabad, District Fazilka, which is taken on record. He urges that the prosecution has collected sufficient incriminating material to establish the complicity of the petitioner in the crime. He submits that the petitioner is

involved in another case bearing FIR registered against him on 16.02.2021 under Sections 384, 120-B of IPC and Section 7 of the Prevention of Corruption Act, 1988, at Police Station City Jalalabad, District Fazilka.

I have considered the rival submissions of the parties and perused the paper-book with their able assistance.

Hon'ble Supreme Court in **M. Ravindran vs. Intelligence Officer** 2020 (4) RCR (Criminal) 800 in Para 13.1 has observed that the right to be released on default bail cannot be defeated merely because the prosecution files the charge sheet prior to furnishing of bail and fulfilling of the conditions of bail of furnishing bonds, etc., so long as the accused furnishes the bail within the time stipulated by the Court.

This Court in CRR-656-2020 titled as **Ranjit @ Angrezi @ Bittu vs. State of Haryana** decided on 13.08.2020 has held that there is no requirement in the Code that the accused is expected to be prepared with the bail bonds and surety in anticipation of a favourable verdict on his application for grant of bail. It has been held that the accused is entitled to a reasonable opportunity to fulfil the bail conditions and which may vary from case to case depending on the facts and circumstances of each case.

A perusal of the bail order dated 02.04.2021, Annexure P-5, shows that no time period was fixed by the trial court for furnishing of the bonds by the accused. In such circumstances, the furnishing of the bonds on the succeeding working day when the default bail was granted cannot be said to be unreasonable and there is no reason for refusing to accept the same. It will be apt to notice the observations of a Co-ordinate Bench of this Court in CRM-M-15206-2020 titled as **Raju vs. Union Territory of Chandigarh and another** decided on 18.06.2020, which has been followed in **Avtar**

Singh @ Babbu vs. State of Punjab, 2020 (4) RCR (Criminal) 498:-

“Mr. Gaurav Rana for the petitioner submits that on Friday 13, 2020, when the order was passed no one knew that over the weekend three days thereafter, the challan would be presented by the prosecution with the FSL report. However, at criminal law, the petitioner had been admitted to bail before the final report was filed under Section 173 Cr.P.C. which had created a valuable right in him by virtue of bail granted under Section 167(2) Cr.P.C. No time was fixed for furnishing bail bonds unless the law is that bail bonds must be furnished on the same day and if there is a delay in furnishing bail bonds, bail stands automatically cancelled and the person remains in jail at its own peril. In any case, the petitioner was in jail and was represented by a counsel, who was to take steps in this regard. It is not possible to segment the day in small parts of time during court hours and expect people to work mechanically like clockwork, especially when one does not know the time when the matter was taken up and orders passed, when they got typed and made available to the parties. That was not recorded in the order. A fastidious compliance in offshoot paperwork for bail bonds etc. should not be read very strictly. Failure to do so on the same day should not be a too heavy a cost while dealing with liberty of the individual, which failure afterall, leads to longer stay in jail and who would want that. This is reprehensible. Life is not cut and dry. This is how the matter came up on 16.03.2020 before the Judge when the order was passed recording that the challan was presented and it was ordered to be checked and registered and the case was adjourned to 23.03.2020.”

Similar is the position in the present case. Consequently, the impugned order Annexure P-7, passed by learned Additional Sessions Judge, cannot be sustained.

As a result of the above discussion, order dated 05.04.2021, Annexure P-7, is set aside, the trial court shall consider the application, Annexure P-6, afresh and after satisfying itself, accept the bail/surety bonds furnished by the petitioner and release him on bail on conditions as specified in the order of 02.04.2021, Annexure P-4.

Petition is disposed of.

27.05.2021
sheetal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No