

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(118)

CRM-M-22903-2021 (O&M)
Date of decision: 20.07.2021

Shiv Kumar @ Kishan

...Petitioner

Versus

The State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Lalit Kumar Yadav, Advocate
for the petitioner.

Mr. Kuldeep Tiwari, Additional Advocate General, Haryana.

...

SUVIR SEHGAL, J. (Oral)

The Court has been convened through video conferencing due to
Covid-19 pandemic.

CRM-20100-2021

For the reasons given in the application, it is allowed. The
hearing of the main petition is preponed to today and is ordered to be taken
on Board.

CRM-M-22903-2021

Instant petition has been filed under Section 482 of the Code of
Criminal Procedure, 1973 seeking modification of order dated 04.05.2021
(Annexure P-2) passed by learned Sessions Judge, Panchkula, whereby the
petitioner has been granted regular bail in FIR No.305 dated 07.09.2020
registered for offence under Section 392 of the Indian Penal Code, 1860
(Sections 120-B and 397 of IPC, were added later on) at Police Station

Chandi Mandir, District Panchkula and quashing of order dated 24.5.2021 (Annexure P-4) passed by the learned Sessions Judge, Panchkula vide which the application for acceptance of bail bond on behalf of the petitioner has been dismissed.

Counsel for the petitioner has urged that while granting regular bail to the petitioner, the Court vide order (Annexure P-2) has ordered his release on furnishing of bail bonds for a sum of Rs. 50,000/- with one surety in the like amount to the satisfaction of the Court with a condition that the surety must own immovable property within the revenue estate Panchkula. He submits that the condition imposed by the Court is unreasonable and he confines his prayer to the setting aside of the same. In all fairness, State Counsel has not opposed this limited prayer.

Submissions made by the counsel have been considered.

Hon'ble Supreme Court in ***Moti Ram and others Versus State of Madhya Pradesh (AIR) 1978 SC 1594*** has dis-approved of the imposition of any condition which requires the surety to be from the geographical area of the Court where the offence is being tried. While directing release of the accused on his personal bond, Apex Court of the country in para 32 observed as under:-

“32. To add insult to injury, the Magistrate has demanded sureties from his own district (We assume the allegation in the petition). What is Malayalees, Kannadiga, Tamil or Telugu to do if arrested for alleged misappropriation or theft or criminal trespass in Bastar, Port Blair, Pahalgam

or Chandni Chowk? He cannot have sureties owning properties in these distant places. He may not know anyone there and might have come in a batch or to seek a job or in a Morcha. Judicial disruption of Indian Unity is surest achieved by such provincial allergies. What law prescribes sureties from outside or a non-regional language applications? What law prescribes the geographical discrimination implicit in asking for sureties from the Court District? This tendency takes many forms, sometimes geographic, sometimes linguistic, sometimes legalistic. Article 14 protects all Indians qua Indians, within the Territory of India. Article 350 sanctions representation to any authority, including a Court, for redress of grievances in any language used in the Union of India. Equality before the law implies that even a Vakalat or affirmation made in any State language according to the law in that State must be accepted elsewhere in the Territory of India say where a valid legislation to the contrary exists. Otherwise an Adivasi will be un-free in free India, and likewise many other minorities. This divagation has become necessary to still the judicial beginnings, and to inhibit the process of making Indians aliens in their own homeland. Sawraj is made of united stuff.”

Consequently, the impugned order dated 04.05.2021 (Annexure P-2) is modified. The condition imposed by the learned Sessions Judge to the effect that the surety must own immovable property in the revenue estate of Panchkula being onerous, is set aside. Other conditions imposed by the Court shall remain unaltered. Petitioner is afforded another opportunity to furnish fresh bail bond to the satisfaction of the trial Court.

Petition is disposed of.

(SUVIR SEHGAL)
JUDGE

20.07.2021

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No