

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

CRM-M-42349-2021

Date of decision : 12.10.2021

Gurjeet Singh

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Karanjeet Singh Brar, Advocate
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

(Through Video Conferencing)

FIR No.	Dated	Police Station	Sections
356	20.07.2021	Barnala City, District Barnala	384, 389, 342, 323, 506, 511, 120-B IPC of 1860.

ANOOP CHITKARA, J (ORAL)

The petitioner, incarcerated upon his arrest for the commission of offences of extortion, threat, beatings and criminal conspiracy, has come up before this Court seeking regular bail.

2. In Para 17 of the bail application, the petitioner declares having no criminal history.

ALLEGATIONS

3. Briefly, the allegations against the petitioner are the complainant Rakesh Kumar informed the police that he runs a business of Ply Board in Barnala City. On 17.07.2021 in the evening, he received a call from a lady and she told that she wanted a work to be done. On this, he reached her house and she started talking to him. In the meantime, a young boy came and he gave beatings to the complainant and asked him to remove his clothes and started making videos.

Subsequently, they started blackmailing him on the pretext that they have obscene videos. The role assigned to the petitioner that he gave beatings to the complainant. Based on these allegations, the Police registered the FIR mentioned above.

4. Ld. Counsel for the petitioner contends that incarceration before the proof of guilt would cause grave injustice to the petitioner and family.

5. On the contrary, the contention on behalf of the State is that if this Court is inclined to grant bail, then such a bond must be subject to very stringent conditions.

6. The possibility of the accused influencing the investigation, tampering with evidence, intimidating witnesses, and the likelihood of fleeing justice, can be taken care of by imposing elaborative and stringent conditions. In **Sushila Aggarwal**, (2020) 5 SCC 1, Para 92, the Constitutional Bench held that unusually, subject to the evidence produced, the Courts can impose restrictive conditions.

REASONING:

7. As per the report of the Superintendent District Jail, Barnala, the petitioner has already remained in custody for 2 months and 17 days.

a) This is the first case against the petitioner. This Court wants to give a chance to the petitioner to reform himself and mend his ways.

8. An analysis of entire evidence does not justify further incarceration of the accused, nor is going to achieve any significant purpose. Without commenting on the case's merits, given the investigation stage, the period of incarceration already undergone, and the circumstances peculiar to this case, the petitioner makes a case for release on bail.

9. Given the above reasoning, the Court is granting bail to the petitioner, subject to strict terms and conditions, which shall be over and above and irrespective of the contents of the form of bail bonds in chapter XXXIII of CrPC, 1973.

10. The petitioner shall be released on bail in the FIR mentioned above, subject to his furnishing a personal bond of **Rs. Ten thousand (INR 10,000/-)**, and shall furnish one surety of **Rs. Twenty-five thousand (INR 25,000/-)**, to the satisfaction of the Judicial Magistrate having the jurisdiction over the Police Station conducting the investigation, and in case of non-availability, any Ilaka Magistrate. Before accepting the sureties, the concerned Magistrate must satisfy that in case the accused fails to appear in Court, then such sureties are capable to produce the accused before the Court, keeping in mind the Jurisprudence behind the sureties, which is to secure the presence of the accused.

11. The furnishing of the personal bonds shall be deemed acceptance of the following and all other stipulations, terms, and conditions of this bail order:

a) The petitioner to execute a bond for attendance to the concerned Court(s). Once the trial begins, the petitioner shall not, in any manner, try to delay the proceedings, and undertakes to appear before the concerned Court and to attend the trial on each date, unless exempted. In case of an appeal, on this very bond, the petitioner also promises to appear before the higher Court in terms of Section 437-A CrPC.

b) The attesting officer shall, on the reverse page of personal bonds, mention the permanent address of the petitioner along with the phone number linked with the AADHAR, WhatsApp number (if any),

e-mail (if any), and details of personal bank account(s) (if available), and in case of any change, the petitioner shall immediately and not later than 30 days from such modification, intimate about the change of residential address and change of phone numbers, WhatsApp number, e-mail accounts, to the Police Station of this FIR to the concerned Court.

c) The petitioner shall not influence, browbeat, pressurize, make any inducement, threat, or promise, directly or indirectly, to the witnesses, the Police officials, or any other person acquainted with the facts of the case, to dissuade them from disclosing such facts to the Police, or the Court, or to tamper with the evidence.

d) The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer; and shall cooperate with the investigation at all further stages as may be required. In the event of failure to do so, it will be open for the prosecution to seek cancellation of the bail. Whenever the investigation occurs within the police premises, the petitioner shall not be called before 8 AM and shall be let off before 5 PM, and shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

12. Given the gravity of accusations and the heinous nature of the offence, the petitioner shall surrender all weapons, firearms, ammunition, if any, along with the arms license to the concerned authority within 30 days from today and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew

and take it back in case of acquittal in this case.

13. The petitioner shall neither stare, stalk, make any gestures, remarks, call, contact, message the victim, either physically, or through phone call or any other social media, nor roam around the victim's home. The petitioner shall not contact the victim.

14. The petitioner should stay far away from the place of occurrence while on bail. Thus, the petitioner shall not enter within a radius of one kilometre from the complainant's house. This Court is imposing this condition to rule out any attempt by the accused to incapacitate, influence, or to cause any discomfort to the victim. Reference be made to Vikram Singh v Central Bureau of Investigation, 2018 All SCR (CrI.) 458; and Aparna Bhatt v. State of Madhya Pradesh, 2021 SCC Online SC 230.

15. During the trial's pendency, if the petitioner **repeats** or commits any offence where the sentence prescribed is more than seven years or violates any condition as stipulated in this order, it shall always be permissible to the respondent to apply for cancellation of this bail. It shall further be open for any investigating agency to bring it to the notice of the Court seized of the subsequent application that the accused was earlier cautioned not to indulge in criminal activities. Otherwise, the bail bonds shall continue to remain in force throughout the trial and after that in terms of Section 437-A of the CrPC.

16. Any Advocate for the petitioner and the Officer in whose presence the petitioner puts signatures on personal bonds shall explain all conditions of this bail order, in vernacular and if not feasible, in Hindi.

17. In case the petitioner finds the bail condition(s) as violating fundamental, human, or other rights, or causing difficulty due to any situation, then for modification of such term(s), the petitioner may file a reasoned application before this Court, and after taking cognizance, even to the Court taking cognizance or the trial Court, as the case may be, and such Court shall also be competent to modify or delete any condition.

18. This order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation per law.

19. Any observation made hereinabove is neither an expression of opinion on the merits of the case, nor shall the trial Court advert to these comments.

20. In return for the protection from incarceration, the Court believes that the accused shall also reciprocate through desirable behavior.

21. The SHO of the concerned Police Station or the Investigating Officer shall arrange to send a copy of this order, preferably a soft copy, to the victim, within two days. In case the victim notices any objectionable behavior or violation of any terms or conditions of this order, the victim may inform the SHO of the concerned Police Station or the Trial Court or even to this Court.

22. *There would be no need for a certified copy of this order for furnishing bonds. Any Advocate for the petitioner can download this order along with the case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer or the Court wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

In the facts and circumstances peculiar to this case, the petition is

allowed in the terms mentioned above.

(ANOOP CHITKARA)
JUDGE

12.10.2021
Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No