

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

**CRM-M-42789 of 2021
Reserved on 09.11.2021
Pronounced on 11.11.2021**

Chitra Bora

.....**Petitioner**

VERSUS

State of Haryana

.....**Respondent**

CORAM : HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:-Mr. Gurvinder Singh Sandhu, Advocate for the petitioner.

Mr. Rajat Gautam, DAG, Haryana.

Mr. Rohit Chandel, Advocate for the complainant.

ANOOP CHITKARA, J.

THROUGH VIDEO CONFERENCE

FIR No.	Dated	Police Station	Sections
361	24.08.2021	Sector 50, Gurugram, Haryana	419, 420, 465, 468, 471 and 120-B IPC

CRM-37543 of 2021

Application is allowed, as prayed for.

CRM-M-42789 of 2021

The petitioner, incarcerated upon his arrest has come up before this Court seeking regular bail.

2. As per para 11 of the bail petition, the petitioner has two more cases pending against her, which are as under:-

(i) FIR No.0394 dated 02.09.2021 under Sections 420 and 406 IPC, Police Station Uday Mandir, District Jodhpur North, Rajasthan;

(ii) FIR No.124 dated 29.04.2021, under Sections 420, 406 and 34 IPC,

Police Station Azad Maidan, Mumbai.

3. Briefly, the allegations against the petitioner is that vide complaint dated 07.07.2021, the complainant informed the Commissioner of Police, West Gurugram, Haryana about the acts of forgery committed by the petitioner and her accomplices. The complaint mentioned that he was an aspiring cricketer and participated in various tournaments. In May, 2019, he joined SDCM Cricket Academy on persuasion of Sh. Raj Rajput. After joining, Sh. Raj Rajput offered the complainant to play for North-Eastern State on the condition that he had to pay a sum of Rs. 1,00,000/- to him. Initially, the complainant did not accept the offer but due to persistent coercion and allurements by Sh. Raj Rajput, subsequently he paid Rs.70,000/- by cash and Rs. 30,000/- by depositing in account of a person named Sonu Yadav. The other details are irrelevant except that Sh. Raj Rajput showed him once forged/fabricated letter of Himachal Pradesh Cricket Association, which showed that he has been selected to play in Himachal State Under-23 Col. C.K. Naidu Trophy Tournament in National League of India as a professional guest player for the season 2019-2020. Later on, he was told that this letter is yet to be published and for that he needs to pay Rs.10 lacs. As a result of this falsity, complainant felt that in case he does not pay money, he will miss the golden opportunity of his life. He was told by Sh. Ashutosh Bora and Chitra Bora (petitioners) to pay Rs. 10 lacs. The father of the complainant deposited amount of Rs. 9 lacs in account of Gulf Solution Enterprises owned by Nitin. Further details of the incidents are relevant. Complainant realizing that he has been duped made the aforesaid complaint. Based on these allegations, the Police registered the FIR mentioned above.

4. Learned counsel for the petitioner submits that the parties have entered into some settlement and memorandum to that effect has already been entered between them. The said memorandum of understanding was placed on record vide Annexure A-1 filed in CRM-37543 of 2021. Learned counsel for the petitioner also argues that she is suffering from various ailments.

5. Mr. Rajat Gautam, DAG, Haryana has strenuously opposed the bail on the ground that the petitioner and her accomplices are *Thugs* and have committed a grave offence and don't deserve any bail.

Learned counsel has placed on record the instructions received from the Deputy Superintendent of Police. Based on such instructions, learned State counsel has argued that the petitioner is a big cheater and has duped large number of young boys by using false logos and stamps of BCCI, DDCA, HPCA, NCA, IPL, ICC.

REASONING:

Needless to say the act of the petitioner and her accomplices is extremely heinous. These types of activities have eroded faith of people in the entire system but the fact is that this Court is dealing not with trial but with bail. The considerations for grant of bail are entirely different. In present case the petitioner has been in custody for considerable time. Furthermore, she is a woman. Cr.P.C. has special lenient provision for bail in case of women and children. Apart from these factors, the intention of the accused to compromise the entire matter would entitle her bail at this stage. Apart from the present case, the petitioner also has two cases in FIR No.0394 dated 02.09.2021 under Sections 420 and 406 IPC, Police Station Uday Mandir, District Jodhpur North, Rajasthan and FIR No.124 dated 29.04.2021, under Sections 420, 406 and 34 IPC, Police Station Azad Maidaan, Mumbai.

6. In Gurbaksh Singh Sibbia v State of Punjab, 1980 (2) SCC 565, (Para 30), a Constitutional Bench of Supreme Court held that the bail decision must enter the cumulative effect of the variety of circumstances justifying the grant or refusal of bail. In Kalyan Chandra Sarkar v Rajesh Ranjan @ Pappu Yadav, 2005 (2) SCC 42, (Para 18) a three-member Bench of Supreme Court held that the persons accused of non-bailable offences are entitled to bail if the Court concerned concludes that the prosecution has failed to establish a prima facie case against him, or despite the existence of a prima facie case, the Court records reasons for its satisfaction for the need to release such person on bail, in the given fact situations. The rejection of bail does not preclude filing a subsequent application. The courts can release on bail, provided the circumstances then prevailing requires, and a change in the fact situation. In State of Rajasthan v Balchand, AIR 1977 SC 2447, (Para 2 & 3), Supreme Court noticeably illustrated that the basic rule might perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the Court. It is true that the gravity of the offence involved is likely to induce the petitioner to avoid the course of justice and must weigh when considering the question of jail. So also, the heinousness of the crime. In GudikantiNarasimhulu v Public Prosecutor, (1978) 1 SCC 240, (Para 16), Supreme Court held that the delicate light of the law favors release unless countered by the negative criteria necessitating that course. In Prahlad Singh Bhati v NCT, Delhi, (2001) 4 SCC

State's immense interest and similar other considerations. In *Dataram Singh v State of Uttar Pradesh*, (2018) 3 SCC 22, (Para 6), Supreme Court held that the grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously, compassionately, and in a humane manner. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.

7. 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.

8. 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. Provided the accused is not required in any other case, the petitioner shall be released on bail in the FIR mentioned above, subject to 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 Chief Judicial Magistrate/Judicial Magistrate having the jurisdiction over the Police Station conducting the investigation, and in case of non-availability, any Illaqa Magistrate/duty Magistrate. Before accepting the sureties, the concerned Court must satisfy that in case the petitioners-accused fail to appear in Court, then such sureties are capable to produce the petitioners-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.

12. 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 petitioners also promise to appear before the higher Court in terms of Section

437-A CrPC.

13. The attesting officer shall, on the reverse page of personal bonds, mention the permanent address of the petitioner along with the phone number(s), 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.

14. 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.

15. 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.

16. 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.

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

18. In case the petitioners find 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 petitioners 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.

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

the merits of the case, nor shall the trial Court advert to these comments.

21. In return for the protection from incarceration, the Court believes that the petitioners-accused shall also reciprocate through desirable behavior.
22. *There would be no need for a certified copy of this order for furnishing bonds. Any Advocate for the petitioners 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. The Prosecutor shall also verify the downloaded copy by comparing it from the official web page. 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.*
23. In the facts and circumstances peculiar to this case, the petition is allowed in the terms mentioned above.

{ANOOP CHITKARA}

JUDGE

November 11, 2021

Poonam Sharma

<i>Whether speaking/reasoned :</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>