

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

203(1)

CRM-M-44336-2021

Date of Decision: December 15, 2021

Harbans Singh @ Dheera

.....Petitioner

Vs.

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Baltej Singh Sidhu, Senior Advocate with
Mr. Himmat Singh Sidhu, Advocate
for the petitioner.

Mr. Harsimar Singh Sitta, AAG, Punjab.

Ms. Manju Goyal, Advocate
for the complainant.

(Through Video Conferencing)

ANOOP CHITKARA J. (ORAL)

FIR No.	Dated	Police Station	Sections
273	21.09.2021	Sadar Mansa	384, 342, 506 and 34 IPC

The petitioner, apprehending arrest in the FIR captioned above, came up before this Court under Section 438 Cr.P.C., seeking anticipatory bail.

2. Learned counsel for the petitioner submits that vide order dated 22.10.2021, this Court had granted interim anticipatory bail to the petitioner and the petitioner had joined the investigation as and when he was called upon to do so.

3. Learned State counsel has not disputed the fact that the petitioner has joined the investigation. On instructions from ASI Goga Singh, he submits that custodial interrogation of the petitioner is not required. However, he further submits that in case, this Court is inclined to grant bail to the petitioner then the petitioner should be released on strict and stringent terms and

conditions.

4. Learned counsel for the complainant has opposed the bail to the petitioner on the ground that the victim was only 17 years of age.

5. Be that as it may, considering the nature of allegations, no pre-trial incarceration is required. Although, the allegations are very serious but since the petitioner is first offender as such, this Court would give him a final opportunity to behave properly. Without commenting on the case's merits and the circumstances peculiar to this case, the petitioner makes a case for release on bail, subject to the following terms and conditions, which shall be over and above and irrespective of the contents of the form of bail bonds in chapter XXXIII of Cr.P.C., 1973.

6. 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 with one surety of Rs. Twenty-five thousand (INR 25,000/-), to the satisfaction of the Investigator. Before accepting the surety, the Attesting Officer 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.

7. The furnishing of the personal bond 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 in 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 Cr.P.C.

b) 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 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.

8. 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 Cr.P.C.

9. 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.

10. 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.

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

12. 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.

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

14. Given above, the petitioner shall not contact the victim in any manner whatsoever. In case, the petitioner contacts the victim, then on this ground it shall be open for the complainant or the State to file an application for cancellation of bail to the petitioner. With the aforesaid conditions, the present petition is allowed. The order dated 22.10.2021 is hereby made absolute.

15. *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.*

(ANOOP CHITKARA)
JUDGE

December 15, 2021

Jyoti-II

Whether speaking/reasoned:	Yes/No
Whether reportable:	No