

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-49718 of 2021
Reserved on: 02.12.2021
Decided on 06.12.2021

Gurdeep SinghPetitioner

VERSUS

State of Punjab and anotherRespondents

CORAM : HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Impinder Singh Dhaliwal, Advocate for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

ANOOP CHITKARA, J.

The petitioner who is an accused in a complaint case No.48/12CNR No.031104001382012 dated 21.02.2012 registered under Section 138 of Negotiable Instruments Act (Annexure P-1), has come up before this Court seeking regular bail under Sections 439 Cr.P.C.

2. The petitioner is facing consequences since 2012 because a cheque for Rs.1,22,000/-, given by him to the complainant, did not honour. The petitioner did not appear before the concerned Court and non-bailable warrants remained unexecuted. Subsequently the accused was declared a proclaimed offender under Section 82 Cr.P.C., vide order dated 22.11.2013. After eight years, the petitioner filed an application for bail before the trial court, but it was dismissed on 28.09.2021. Subsequently, he filed a petition under Section 439 Cr.P.C., before the Sessions Court, which was also dismissed vide order dated 26.10.2021.

3. Custody certificate has been filed by the State which is taken on record. As per the custody certificate, the petitioner has remained in jail for a period of 02 months & 08 days as on 01.12.2021.

4. Given the period of incarceration which the petitioner has already undergone *vis-à-vis* the amount of cheque involved, on this ground alone the petitioner makes out a case for bail.

5. Given above, the petitioner shall be released on bail in the complaint 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 Special Judge/Judicial Magistrate having the jurisdiction over the Police Station conducting the investigation, and in case of non-availability, any Ilaqa Magistrate/duty Magistrate. Before accepting the sureties, the concerned Court must satisfy that in case the petitioner-accused fail to appear in Court, then such sureties are capable to produce the petitioner-accused before the Court, keeping in mind the Jurisprudence behind the sureties, which is to secure the presence of the accused.

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

7. 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 promise to appear before the higher Court in terms of Section 437-A CrPC.

8. 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.

9. During the trial's pendency, if the petitioner repeat 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.

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

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 petitioner-accused shall also reciprocate through desirable behavior.
14. *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. 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.*
15. In the facts and circumstances peculiar to this case, the petition is allowed in the terms mentioned above.

{ANOOP CHITKARA}
JUDGE

06.12.2021
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Whether speaking/reasoned :	Yes/ No
Whether reportable	Yes /No