

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

Date of decision: 18.02.2022

...Petitioner(s)

Versus

...Respondent

Present: Mr. Rakesh Kumar, Advocate for the petitioner(s).

Mr. Rajeev Anand, APP for UT, Chandigarh.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0067	19.04.2021	Industrial Area, Chandigarh	75/79 Juvenile Justice (Care and Protection of Children) Act and Section 3(1)/14(1A) of Child Labour (Prohibition and Regulation Act)

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 13 of the petition, it is declared that the accused has no criminal history.
3. Ld. Counsel for the petitioner contends that the custodial investigation is not required as the matter is under investigation.
4. On instructions received from ASI Parwinder Singh, learned State counsel opposed the bail.

REASONING:

5. The petitioner(s) is first offender, and one of the relevant factors would be to provide an opportunity to course-correct. Even a prima facie perusal of paragraphs No.4 of the bail petition needs consideration for bail.
6. Given above, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner(s) makes a case for interim bail, subject to the

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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 CrPC, 1973.

7. In Mahidul Sheikh v. State of Haryana, CRM-33030-2021 in CRA-S-363-2020, decided on 14-01-2022, Para 53, this Court observed,

[53]. The pragmatic approach is that while granting bail with sureties, the “Court” and the “Arresting Officer” should give a choice to the accused to either furnish surety bonds or to handover a fixed deposit, or direct electronic money transfer where such facility is available, or creating a lien over his bank account. The accused should also have a further option to switch between the modes. The option lies with the accused to choose between the sureties and deposits and not with the Court or the arresting officer.

8. Given above, the petitioner(s) shall be released on interim bail in the case mentioned above, subject to his furnishing a personal bond of Rs. Ten Thousand only (INR 10,000/-), and furnishing one surety for Rs. Twenty-Five thousand only (INR 25,000/-), to the satisfaction of the concerned trial Court. Before accepting the sureties, the concerned officer must satisfy that if the accused fails to appear in Court, then such surety is capable of producing the petitioner(s) before the Court.

9. In the alternative, the petitioner(s) may furnish a personal bond of Rs. Ten Thousand only (INR 10,000/-), and hand over to the the attesting officer, a fixed deposit(s) for Rs. Ten Thousand only (INR 10,000/-), made in favour of Chief Judicial Magistrate of the concerned district. Such Fixed deposits may be made from any of the banks where the stake of the State is more than 50%, or any of the well-established and stable private banks, with the clause of automatic renewal of principal, and the interest reverting to the linked account. The arresting officer shall give a time of ten working days to enable the accused to prepare a fixed deposit. Such a fixed deposit need not necessarily be made from the applicant's account. If such a fixed deposit is made in physical form, i.e., on paper, then the original receipt shall be handed over to the concerned court. If made online, its printout, countersigned by the accused, shall be given; and the depositor shall get the online liquidation disabled. The applicant shall inform the concerned branch of the bank at the earliest that it has been tendered as surety. Such information be sent either by e-mail or by post/courier about the fixed deposit, whether made on paper or in any other mode, along with its number and FIR number. After that, the applicant shall hand over such proof and endorsement to the concerned police station. Such officer shall have a lien over the deposit until discharged by substitution, and in case any court takes cognizance, then such court, upon which the investigator shall hand over the deposit to such court, which shall have a lien over it up to the expiry of the period mentioned under S. 437-A CrPC, 1973, or until discharged by substitution as the case may be. If any, subject to the proceedings under S. 446 CrPC, the entire amount of fixed deposit, less taxes if any, shall be endorsed/returned

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to the depositor.

10. It shall be the total discretion of the applicant to choose between surety bonds and fixed deposits. It shall also be open for the applicant to apply for substitution of fixed deposit with surety bonds and vice-versa.

11. On the reverse page of personal bonds, the attesting officer shall mention the permanent address of the petitioner(s) along with the phone number linked with the AADHAR card, the other phone numbers (if any), and e-mail (if any).

12. The petitioner(s) to also execute a bond for attendance in the concerned Court(s), as and when asked to do so. The presentation of the personal bond shall be deemed acceptance of the following and all other stipulations, terms, and conditions of this bail order.

13. The petitioner(s) 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 and the circumstances of the case, to dissuade them from disclosing such facts to the Police, or the Court, or to tamper with the evidence.

14. Any Advocate for the petitioner(s) and the Officer in whose presence the petitioner(s) puts signatures on personal bonds shall explain all conditions of this bail order in any language that the petitioner(s) understands.

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

16. 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.

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

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

Petition allowed in aforesaid terms. All pending applications, if any, stand disposed.

**(ANOOP CHITKARA)
JUDGE**

18.02.2022
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Whether speaking/reasoned: Yes
Whether reportable: No.