

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-7345-2020 (O&M)
Date of Decision:-28.9.2022

Sanjeev Joshi ... Petitioner

Versus

U.T. Chandigarh and another ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. R.K. Trikha, Advocate for the petitioner.

Mr. Sumeet Jain, APP, U.T., Chandigarh,
assisted by ASI Kavita.

Mr. Rohit Kapoor, Advocate for respondent No.2.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks grant of anticipatory bail in respect of a case registered vide FIR No.10 dated 29.1.2020 at Police Station Sector 3 (North), Chandigarh, under Sections 420, 467, 468, and 471 of Indian Penal Code.
2. At the time of issuance of notice of motion, the following order was passed on 19.2.2020:

“This is a petition under Section 438 Cr.P.C. for grant of pre-arrest bail to the petitioner in case F.I.R. No.10 dated 29.01.2020 under Sections 420, 467, 468 and 471 IPC, registered at Police Station Sector-3 (North), Chandigarh.

Learned senior counsel for petitioner inter alia contends that a bare perusal of contents of FIR coupled with application dated 29.10.2014 (Annexure P/17) moved at the instance of complainant-Sudha Joshi for return of bank guarantee before Court concerned, it is yet to be decided during the course of trial as to in what manner the amount of Rs.5,00,000/-of bank guarantee was got withdrawn. He further submits that even though petitioner has no nexus whatsoever with the alleged offence, but even then petitioner is ready to furnish FDR amounting to Rs.5,00,000/- favouring complainant-Sudha Joshi, however, encashment of said amount FDR should be subject to outcome of investigation and trial of instant case FIR. He further submits that petitioner is ready to join investigation as and when called upon to do so by the Investigating Agency.

Notice of motion.

At the asking of Court, Mr. Gautam Dutt, APP, U.T., Chandigarh, accepts notice on behalf of respondent-U.T., Chandigarh and seeks time to furnish detailed reply. Complete copy of paper book be supplied to him during the course of the day

Adjourned to 28.04.2020.

Meanwhile, in the eventuality of arrest of petitioner in the instant case FIR, he shall be enlarged on interim bail subject to his furnishing personal/surety bonds to the satisfaction of Arresting Officer/ Investigation Officer. Petitioner shall join investigation as and when called upon to do so by Investigating Agency. Petitioner shall abide by conditions as laid down in Section 438(2) Cr.P.C. in letter and spirit.

Further, the petitioner shall get the FDR, as detailed above, prepared within four weeks positively and shall hand over the same to the Investigating Officer against valid receipt. It is made clear that encashment of FDR shall be subject to outcome of investigation and trial of instant case FIR.”

3. The learned State counsel, upon instructions from ASI Kavita, has informed that pursuant to interim directions, petitioner has joined investigation and in fact challan already stands presented.
4. The learned counsel for the complainant has, however, opposed the petition and has submitted that since the petitioner is a habitual offender having been involved in another identical case, wherein he had tried to usurp the property of his mother on the basis of forged documents, he does not deserve any concession of bail.
5. This Court has considered the rival submissions.
6. Having regard to the facts and circumstances of this case, particularly the fact that it was in the year 2020 that the petitioner was granted *interim* bail and pursuant to that he has joined investigation, which stands concluded and challan already stands presented, his custodial interrogation would not be warranted at this stage.
7. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 19.2.2020 are hereby made absolute, subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438(2) Cr.P.C.
8. It is, however, directed that the FDR in question, which had been handed over to the Investigating Officer in compliance of order dated 19.2.2020 shall be kept intact in the Court and shall be got periodically renewed. Needful be done for ensuring that FDR is in the name of Court. The Manager of the bank concerned be directed not to entertain any request for encashment of the

same except under orders of the Court. Upon the petitioner being declared innocent during investigation or being acquitted in trial and such acquittal attains finality, the petitioner shall be entitled to proceeds of the said FDR. However, in case the petitioner is found guilty and is convicted and such conviction attains finality, the complainant shall be entitled to proceeds of the FDR in question.

28.9.2022*geeta***(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No