

CRM-M-10439-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123+259

CRM-17080-2022 in/and
CRM-M-10439-2022 (O&M)
Date of Decision: 09.05.2022

Tanu Jain and another ...Petitioners

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Nishant Das, Advocate,
Mr. Atul Kumar, Advocate and
Mr. Satyan Aneja, Advocate
for the petitioners.

Mr. Manish Bansal, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Section
893	20.05.2019	Shivaji Nagar, Gurugram	174-A of IPC

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This is an application to place on record the complaint copy of the case bearing NACT No. 8031 of 2016 titled Charanjeet Singh Versus Maxout Infrastructure India Pvt. Ltd. as Annexure P-6

In view of the contents and prayer clause of the application, the same is allowed. Annexure P-6 is taken on record.

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1. Challenging the order of proclamation on being declared a proclaimed offender, two women have come up before this court under section 482 of Code of Criminal Procedure, 1973 (Cr.P.C).
2. The accused could not be served through the ordinary process, including summons, bailable warrants, and even non-bailable warrants. The concerned court finally proceeded against the petitioners under section 82 of Cr.P.C and declared the petitioner No. 2 a proclaimed offender vide order dated 08.01.2018 and petitioner

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No. 1 a proclaimed offender vide order dated 06.04.2018, passed by Ld. JMJC Gurugram.

3. After arguing for considerable time, Ld. counsel for the petitioners submits that the criminal justice system must not hamper and suffer because of the petitioners. Thus, would confine the prayers in the petition to grant of bail on the petitioners' surrendering before the majesty of the concerned court, and reserving liberty to raise the given-up relief in the subsequent petition(s), if the need so arises.

4. Ld. counsel appearing for the State has strenuously opposed this petition, including the limited relief as confined by the petitioners.

5. Given above, this court is confining the adjudication of this matter to the extent mentioned herein before, reserving the liberty to the petitioners as prayed.

6. The petitioner Richa Gupta claims to have resigned from the directorship on Sep 7, 2015; and Tanu Jain on Sep 20, 2015, i.e., prior to the issuance of cheque, and she has annexed the resignation letter as per Company Master Data Annexure P-6.

7. The primary object of service is to secure the accused's presence in trial. The petitioners have approached this court on its own, which establishes the bonafide at this stage. Without adjudicating the explanation offered and stand taken by the petitioners, this court, in the exercise of its inherent powers under section 482 Cr.P.C, deems it appropriate to grant the following limited relief to the petitioners, subject to the compliance of the conditions mentioned in this order.

8. In the present case, the offences were bailable, and it was a complaint case.

9. The possibility of the accused henceforth not attending the trial, 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.

10. Without commenting on the case's merits, and in the facts and circumstances peculiar to this case, and also for the reasons mentioned above, the ends of justice would meet with the following order.

11. The petitioners shall surrender before the concerned court **within ten days from today**. On appearance, the concerned court shall release the petitioners on bail on the same day, subject to furnishing bail bonds to its satisfaction and imposing additional conditions, as it may deem appropriate in the background of the accused's conduct.

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12. The petitioners to execute a bond for attendance in the concerned court. On the reverse page of personal bonds, the petitioners shall mention the permanent address, along with the phone number linked with the AADHAR card, the other phone numbers (if any), and e-mail (if any). In case of any change in the above particulars, the petitioners shall immediately and not later than 30 days from such modification, intimate about the change to the concerned Police Station and the concerned Court.

13. **There shall be a stay of the petitioners' arrest in the case mentioned above for ten days;** however, if the petitioners fail to appear within the time stipulated above, then stay on arrest shall stand vacated without any further reference to this court. It is clarified that if the petitioners appear before the concerned court, then all warrants issued by the concerned court against the petitioners, in the matter mentioned above shall stand recalled and canceled.

14. **Within ten days from today,** the petitioners shall procure a smartphone and inform its IMEI number and other details to the SHO/I.O. of the Police station mentioned before. The petitioners shall always keep the phone location/GPS on the "ON" mode. Whenever the Investigating officer asks to share the location, the petitioners shall immediately do so. The petitioners shall neither clear the location history, WhatsApp chats, calls nor format the phone without permission of the concerned SHO/I.O. This condition shall continue till the completion of the trial or closure of case, whatever is earlier.

15. **Within ten days from today,** the petitioners shall deposit a sum of rupees ten thousand each, in 'High Court Lawyers Welfare Fund,' Account number 65018692589, SB, IFCL code SBIN0050306, Branch Code 50306, Branch Address State Bank of India, High Court Branch, Sector 1, Chandigarh. After depositing, the petitioners shall file the proof of deposit, before the concerned court and send its copy along with a copy of this order to the Secretary, Punjab & Haryana High Court Bar Association, either in physical or electronic mode.

16. 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 any language that the petitioners understand.

17. 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.

18. Given the fact that both the petitioners had resigned from the company, in 2015, after first appearance as mentioned above, if the petitioners seek exemption from

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appearance without causing delay in trial, then such applications be considered sympathetically.

19. *There would be no need for a certified copy of this order, and any Advocate for the Petitioners 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.*

20. Petition partly allowed to the extent mentioned above. All pending applications, if any, stand disposed. Liberty reserved to challenge the FIR under section 174-A IPC as well as PO order, in accordance with law.

(ANOOP CHITKARA)
JUDGE

09.05.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.