

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12521-2022
Reserved on: 09.08.2022
Pronounced on: 09.09.2022

Labh Kaur ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. L.S. Sekhon, Advocate for the petitioner.

Mr. Dhruv Dayal, Sr. DAG, Punjab.

Mr. G.S. Dhaliwal, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
09	26.02.2022	Thulliwal, District Barnala	420, 120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above had come up before this Court under Section 438 Cr.P.C. seeking anticipatory bail.
2. Vide order dated 25-03-2022, the petitioner was granted interim protection, which is continuing till date.
3. Ld. Counsel for the petitioner contends that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. Ld. counsel representing the State opposes bail.

REASONING:

5. The petitioner is a woman aged 80 years and given this there would be no justification to deny her anticipatory bail. Furthermore, apart from criminal, the allegations also point out towards civil nature. The petitioner was granted interim protection, and during the interregnum, there is no allegation that he had intimidated the victim or victim's family or the witnesses or that he had hampered the investigation, or despite being called to join the investigation, he did not appear before the

investigator. Given the above, there would be no justification to discontinue the interim protection, and the same is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

6. Within fifteen days from today, the petitioners shall forward to the Investigator/SHO and the complainant/victim(s) the complete details of bank account numbers with addresses, fixed deposits, DEMAT account numbers, the current market value of jewelry, sovereign metals, all precious articles, held either individually or jointly, and cash-in-hand. ***If the petitioner fails to comply with this condition, then on this ground alone, the bail might be cancelled and the complainant may file any such application for the cancellation of bail, and State shall file the said application.***

7. The conditions mentioned above imposed by this court are to endeavour that the complainant is able to recover the alleged money through appropriate suits and even the investigator is able to take appropriate steps for its recovery. 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. In Sumit Mehta v. State of N.C.T. of Delhi, (2013)15 SCC 570, Para 11, Supreme Court holds that while exercising power Under Section 438 of the Code, the Court is duty-bound to strike a balance between the individual's right to personal freedom and the right of investigation of the police. While exercising utmost restraint, the Court can impose conditions countenancing its object as permissible under the law to ensure an uninterrupted and unhampered investigation. In Mohammed Zubair v. State of NCT of Delhi, Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon'ble Supreme Court holds that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."

Petition allowed in aforesaid terms. Interim order is made absolute subject to strict compliance of all terms and conditions. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

09.09.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.