

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14640-2020
Reserved on: 29-03-2022
Pronounced on: April 27, 2022

Ashok Kumar Aggarwal ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vinod Ghai, Senior Advocate with
Mr. Edward Augustine George, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

Mr. Amit Jaswal, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
348	26.10.2015	Ambala Cantt., District Ambala	406, 420 IPC (Report under Section 173 Cr.P.C was filed under Sections 406, 420, 120-B IPC)

1. The petitioner, who is continuing on interim bail extended initially vide order dated 11.05.2020 incarcerating upon his arrest in the FIR captioned above, has come up before this Court under Section 439 of Code of Criminal Procedure, 1973 (Cr.P.C) seeking bail.
2. In the end note of the petition, at page 16, it is mentioned that the petitioner is on interim bail granted by the Ld. Trial Court vide Annexure P-17. It would be appropriate to reproduce Annexure P-17, the order dated 11-05-2020, which reads as follows:

“File put up before me today being Duty Magistrate, complying with the instruction passed by Hon’ble Punjab & Haryana High Court, Chandigarh received in the situation arising due to outbreak of the novel

coronavirus (Covid-19) vide endorsement no. 7/Spl./RG/Misc. dated 13.04.2020, 13/Spl./RG/Misc. dated 29.04.2020 as well as order bearing Endst. No. 8988 dated 30.04.2020 received from learned District & Sessions Judge, Ambala.

File put up before me on the application filed on behalf of applicant-accused named above for extending interim bail for the period of six weeks. Vide order dated 27.03.2020 undersigned (Ms. Yachana, learned JMJC, Ambala on Duty) released the accused Ashok Aggarwal on interim bail till 11.05.2020 i.e. today. Complying with the order bearing Endst. No. 8338-60 dated 07.05.2020 passed by Hon'ble Punjab & Haryana High Court, Chandigarh, interim bail is extended till six weeks from today and file be put up on 22.06.2020 for further proceedings. Copy of this order be sent to the Superintendent, Central Jail, Ambala for intimation. File be sent back to the court concerned immediately. "

3. Due to the Covid-19 pandemic, deferring the hearing, this court passed the following order on 27-08-2020,

"This court is informed that the interim bail granted to the petitioner due to the Covid-19 pandemic has been extended till 28-09-2020."

4. A bare perusal of the bail petition reveals that the petitioner has annexed the copy of the bail order dated 11.5.2020 as Annexure P-17. As per this order, an application was filed on behalf of the abovesaid petitioner-accused for extending interim bail for further period of six weeks. Vide order dated 27.3.2020, the Duty Magistrate/Judicial Magistrate 1st Class, Ambala had released the petitioner-accused on interim bail till 11.5.2020 i.e. till the date of this order. After that, in compliance with the orders passed by this Court on account of Covid-19 pandemic, interim bail was extended for six weeks from 11.5.2020.

5. The petitioner did not annex the copy of the order dated 27.3.2020 to show whether the initial bail was also granted to him on account of Covid-19 pandemic or for other reasons.

6. After that, the petitioner filed the present petition before this Court under Section 439 CrPC, in which he explicitly mentioned that he is on interim bail as per order dated 11.5.2020 (Annexure P-17). As per order dated 30.6.2020, the petitioner informed the Court that the interim bail has been granted till 30.8.2020 and as such, the matter was adjourned to 27.8.2020. On 27.8.2020, when the matter was taken up, learned counsel appearing on behalf of the petitioner informed the Court that the interim bail granted to the petitioner due to Covid-19 pandemic has been extended till 28.9.2020 and consequently, the matter was adjourned for 30.9.2020. On 30.9.2020, learned counsel for the petitioner informed the Court that the interim bail granted to the petitioner due to Covid-19 pandemic has been extended till 21.11.2020. Similar statements were made on 25.11.2020, 8.1.2021 and 7.4.2021.

7. On 9.9.2021, learned counsel for the petitioner stated that the petitioner is on interim bail and as such, the matter was adjourned to 5.10.2021. Thereafter, on 26.10.2021, learned counsel for the petitioner again submitted that the petitioner's interim bail has been extended till 16.11.2021 and the matter was adjourned to 29.11.2021. On 29.11.2021, this Court passed the following order:-

"On account of Covid-19 the petitioner's interim bail stands extended upto 04.01.2022.

Adjourned to 19.01.2022"

8. On 19.01.2022, learned counsel for the petitioner submitted that on account of Covid-19 pandemic, petitioner's interim bail has been extended till 11.03.202 and the matter was adjourned to 29.3.2022.

9. After that, the matter was listed on 29.3.2022, when arguments were heard and the order was reserved.

10. For the purpose of pronouncement of the order, when this Court perused the entire order sheet along with the petition, it was realized that the Covid-19 pandemic restriction orders stand withdrawn and are no longer operative at this stage. Furthermore, the petitioner did not place on record the order dated 27.3.2020 vide which the Covid-19 pandemic bail order was passed. The petitioner also failed to place on record any of the orders vide which the initial bail granted to the petitioner was extended from time to time in trial Court. Thus, this petition cannot be entertained at this stage.

11. Let the petitioner first surrender before the trial Court and after that he shall be at liberty to file regular bail under Section 439 CrPC. It is clarified that while filing fresh bail petition under Section 439 CrPC, order passed by this Court in present bail petition or previous bail orders, if any, in the present petition shall not come in his way and the matter shall be heard on merits without being influenced by any of the previous orders.

Petition disposed of in aforesaid terms. All interim protections are recalled. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

April 27, 2022
Jyoti-II/ak

Whether speaking/reasoned:	Yes
Whether reportable:	No.