

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19237-2020
Reserved on: 08.08.2022
Pronounced on: August 23, 2022

Nirvair Singh ...Petitioners

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vishav Bahl, Advocate for the petitioner

Mr. Harsimar Singh Sitta, AAG, Punjab.

ANOOP CHITKARA, J.

Criminal Complaint	400/2019 dated 02.09.2019 under sections 452, 326, 324, 323, 148 and 149 IPC, registered at Police Station B-Division, District Amritsar
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1. The petitioner apprehending arrest in the FIR captioned above had come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. Vide order dated 23-07-2020, 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 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 trial. Given the above, there would be no justification to discontinue the interim protection, and the order dated 23.07.2022 is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

case, the petitioner shall surrender all weapons, firearms, ammunition, if any, along with the arms license to the concerned authority within fifteen days from today and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in the concerned rules.

7. Till the completion of the trial, the petitioner shall not contact, call, text, message, remark, stare, stalk, make any gestures or express any unusual or inappropriate, verbal or otherwise objectionable behavior towards the victim and victim's family, either physically, or through phone call or any other social media, through any other mode, nor shall unnecessarily roam around the victim's home.

8. The conditions mentioned above imposed by this court are to endeavour that the accused does not repeat the offence and to ensure the safety of the witnesses, victim, and their families. 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

August 23 2022
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Whether speaking/reasoned: Yes
Whether reportable: No.