

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27625-2021
Reserved on: 13.09.2022
Pronounced on: 19.09.2022

Gurmeet Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Krishan Kanha, Advocate for the petitioner.

Mr. Jashandeep Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Section
06	20.03.2021	Tallewal, District Barnala	22 of NDPS Act

1. The petitioner apprehending arrest in the FIR captioned above had come up before this Court under Section 439 Cr.P.C seeking regular bail.
2. Vide a very detailed and elaborative order dated Feb 08, 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.
5. Ld. counsel representing the State opposes bail.

REASONING:

6. The substance involved in the present case is commercial and the rigours of S. 37 of the NDPS Act do apply in the present case, and vide granting interim bail, this court had considered and referred to section 37 of NDPS Act. Furthermore, during the interregnum, there is no allegation that he had intimidated 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.

7. Given the replies filed by the State, nature of allegations, and other factors peculiar to this, the interim order is made absolute, subject to the following additional conditions:

8. Within fifteen days from today, the petitioner shall procure a smartphone and inform its IMEI number and other details to the SHO/I.O. of the Police station mentioned before. The petitioner shall always keep the phone location/GPS on the "ON" mode. Whenever the Investigating officer asks to share the location, the petitioner shall immediately do so. The petitioner 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.

9. Given the nature of the allegations and the other circumstances peculiar to this 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.

10. 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

19.09.2022
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.