

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27710-2022
Reserved on: 16.08.2022
Pronounced on: 25.08.2022

Vishnu Murlidhar Waje and another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Varinder Basa, Advocate for the petitioners.

Mr. Harsimar Singh Sitta, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
92	22.09.2021	Lambran, District Jalandhar, Punjab	407, 411, 414, 120-B IPC (Section 25 of Arms Act wrongly mentioned in impugned order)

1. The petitioners 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 29-06-2022, the petitioners were granted interim protection, which is continuing till date.
3. Ld. Counsel for the petitioners contends that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioners and family.
4. Ld. counsel representing the State opposes bail.

REASONING:

5. Apart from possible criminal angle, the dispute is also civil in nature. Thus, there would be no justification to keep this bail pending waiting for the proper investigation. The petitioners were granted interim protection, and during the interregnum, there is no allegation that they had intimidated the victim or victim's family or the witnesses or that they had hampered the investigation, or despite being called to join the investigation, they 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 petitioners 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 petitioners fail to comply with this condition, then on this ground alone. In that case, the bail might be canceled, 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 accused does not repeat the offence and to an opportunity is provided to the complainant to take legal remedies for recovery of the alleged money. 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

25.08.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.