

CRM-M-39978-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39978-2022
Reserved on: 05-09-2022
Pronounced on: 06-09-2022

Manil Sharma ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rahul Sharma, Advocate for the petitioner.

Mr. Harsimar Singh Sitta, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0163	14.12.2020	Dehlon, District Police Commissionerate, Ludhiana	379B(2) IPC

1. The petitioner apprehending arrest due to issuance of nonailable warrants, vide order dated 02-06-2022, passed by Additional Sessions Judge, Ludhiana, in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. The nature of order this court proposes to pass, no notice is required to be issued to the private respondent.
3. Ld. Counsel for the petitioner contends that the non-appearance was because the petitioner was unwell and he had requested his counsel to seek exemption, which was not done; thus, the absence was unintentional, without any endeavor to delay the trial, and due to factors beyond the petitioner’s control.
4. The contention on behalf of the State is that given the judicial pronouncements, once non-ailable warrants have been issued, anticipatory bail cannot be granted.

REASONING:

5. If analyzed with a strict view, then the explanation is not that convincing; however, the Ld. counsel appearing for the petitioner states on instructions that the petitioner undertakes to appear on every date. Given such a statement, this court

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affords him a final chance under expectations that the petitioner shall appear on each date without any default.

6. Without adjudicating the maintainability of this petition under section 438 CrPC, and leaving that question open; given the explanation offered by the accused coupled with the facts and circumstances peculiar to this case, a balanced approach would work as an incentive, a catalyst, speeding up the process, and bringing the guilty to Justice and Justice to the guilty.

7. In the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for anticipatory bail, subject to the following terms and conditions, which shall be over and above and irrespective of the contents of the form of bail bonds in chapter XXXIII of CrPC, 1973.

8. In Mahidul Sheikh v. State of Haryana, CRM-33030-2021 in CRA-S-363-2020, decided on 14-01-2022, Para 53, [Law Finder Doc Id # 1933969], this Court observed,

[53]. The pragmatic approach is that while granting bail with sureties, the “Court” and the “Arresting Officer” should give a choice to the accused to either furnish surety bonds or to handover a fixed deposit, or direct electronic money transfer where such facility is available, or creating a lien over his bank account. The accused should also have a further option to switch between the modes. The option lies with the accused to choose between the sureties and deposits and not with the Court or the arresting officer.

9. Given above, provided the accused is not required in any other case, the petitioner shall be released on bail in the FIR mentioned above, subject to furnishing a personal bond of Rs. Ten thousand (INR 10,000/-) and shall furnish one surety of Rs. Twenty-five thousand (INR 25,000/-), to the satisfaction of the concerned Court. Before accepting the sureties, the Court must satisfy that if the accused fails to appear in Court, then such surety is capable of producing the petitioner before the Court.

10. In the alternative, the petitioner may furnish a personal bond of Rs. Ten Thousand only (INR 10,000/-), and hand over to the concerned court a fixed deposit(s) for Rs. Ten Thousand only (INR 10,000/-), made in favour of Chief Judicial Magistrate of the concerned district. Said fixed deposit may be made from any of the banks where the stake of the State is more than 50%, or any of the well-established and stable private banks, with the clause of automatic renewal of the principal and the interest reverting to the linked account.

11. The fixed deposit need not necessarily be made from the applicant's account. If such a fixed deposit is made in physical form, i.e., on paper, then the original receipt shall be handed over to the concerned court. If made online, its printout, countersigned

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by the accused, shall be given; and the depositor shall get the online liquidation disabled. The applicant shall inform the concerned branch of the bank at the earliest that it has been tendered as surety. Such information be sent either by e-mail or by post/courier about the fixed deposit, whether made on paper or in any other mode, along with its number and FIR number. After that, the applicant shall hand over such proof and endorsement to the concerned police station. Such court shall have a lien over the deposit until the case's closure, or discharged by substitution, or up to the expiry of the period mentioned under S. 437-A CrPC, 1973, as the case may be. Subject to the proceedings under S. 446 CrPC, the entire amount of fixed deposit, less taxes, if any, shall be endorsed/returned to the depositor.

12. It shall be the total discretion of the applicant to choose between surety bonds and fixed deposits. It shall also be open for the applicant to apply to the investigator or the concerned court to substitute fixed deposit with surety bonds and vice-versa.

13. On the reverse page of personal bonds, the attesting officer shall mention the permanent address of the petitioner along with the phone number linked with the AADHAR card, the other phone numbers (if any), and e-mail (if any). In case of any change in the above particulars, the petitioner shall immediately and not later than 30 days from such modification, intimate about the change to the concerned Police Station and the concerned Court.

14. The petitioner to also execute a bond for attendance in the concerned Court(s), as and when asked to do so. The presentation of the personal bond shall be deemed acceptance of the following and all other stipulations, terms, and conditions of this bail order. ***The petitioner is directed to attend the trial without a single default.***

15. The bail bonds shall remain in force throughout the trial and after that in Section 437-A of the Cr.P.C., if not canceled due to non-appearance or breach of conditions.

16. The petitioner shall not influence, browbeat, pressurize, make any inducement, threat, or promise, directly or indirectly, to the witnesses, the police officials, or any other person acquainted with the facts and the circumstances of the case, to dissuade them from disclosing such facts to the police, or the court, or to tamper with the evidence.

17. By Sep 19, 2022, the petitioner shall procure a smartphone and inform its IMEI number and other details to the SHO/I.O. of the concerned Police station. 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

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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

18. By the next date, the petitioner shall deposit a sum of rupees ten thousand in the following account and hand over its receipt to the trial court.

“AJIT SINGH POLICE WELFARE FUND”

ACCOUNT NO. 12171450000081,

HDFC BANK, SCO 3, SECTOR 15-C, CHANDIGARH- 160015,

RTGS/NEFT IFSC: HDFC0001217,

19. **This order is subject to the petitioner appearing before the concerned court on or before Sep 26, 2022, failing which it shall eclipse at 4 PM of Sep 26, 2022, under section 362 read with 482 CrPC.**

20. Any Advocate for the petitioner and the Officer in whose presence the petitioner puts signatures on personal bonds shall explain all conditions of this bail order in any language that the petitioner understands.

21. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

22. *There would be no need for a certified copy of this order for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petition allowed in aforesaid terms. All pending applications, if any, stand disposed.

Trial be expedited.

(ANOOP CHITKARA)

JUDGE

Sep 06, 2022

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Whether speaking/reasoned: Yes
Whether reportable: **NO.**