

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46061-2021
Reserved on 15.12.2021
Pronounced on: February 08, 2022

Pardeep Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Narinder S. Lucky, Advocate
for the petitioner.

Mr. Harsimar Singh Sitta, AAG, Punjab.

Mr. Sukhjeet singh, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
60	24.06.2021	Sadar Nawanshahar, District SBS Nagar	408, 420, 120-B IPC

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, came up before this Court under Section 438 of Code of Criminal Procedure, 1973 (CrPC) seeking anticipatory bail.
2. In paragraph 15 of the petition, it is declared that the accused has no criminal history.
3. Ld. Counsel for the petitioner argued that the petitioner has been falsely implicated in the present case.
4. The contention on behalf of the State is that recovery is yet to take place, and bail encourages criminals. The contention of behalf of the complainant is that the petitioner is a cheater and is not at all entitled to bail.

REASONING:

5. The petitioner is a first offender, and one of the relevant factors would be to provide an opportunity to course-correct. Even a prima facie perusal of paragraphs 5 to 7 of the bail petition needs consideration for bail.

6. In the present case, the maximum sentence imposable for the offences mentioned in FIR does not exceed seven years. Thus, directions passed in Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273, (Para 13), apply to this petition, wherein Hon'ble Supreme Court directed all the State Governments to instruct its police officers not to arrest the accused automatically when the offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.

7. The possibility of the accused influencing the investigation, tampering with evidence, intimidating witnesses, and the likelihood of fleeing justice, can be taken care of by imposing elaborative and stringent conditions. 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.

8. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail, and interim order dated 02.11.2021 granting bail is made absolute subject to additional conditions mentioned hereinafter.

9. 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.

10. Given the nature of 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 ten days of release from prison 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.

11. During the trial's pendency, if the petitioner repeats or commits any offence where the sentence prescribed is more than seven years or violates any condition as stipulated in this order, it shall always be permissible to the respondent to apply for cancellation of this bail. It shall further be open for any investigating agency to bring it to the notice of the Court seized of the subsequent application that the accused was earlier cautioned not to indulge in criminal activities. Otherwise, the bail bonds shall continue to remain in force throughout the trial and after that in terms of Section 437-A of the Cr.P.C.

12. Any Advocate for the petitioner shall explain all conditions of this bail order in any language that the petitioner understands.

13. If the petitioner finds bond amount beyond social and financial reach, it may be brought to the notice of this Court for appropriate reduction. Further, if the petitioner finds bail condition(s) as violating fundamental, human, or other rights, or causing difficulty due to any situation, then for modification of such term(s), the petitioner may file a reasoned application before this Court, and after taking cognizance, even to the Court taking cognizance or the trial Court, as the case may be, and such Court shall also be competent to modify or delete any condition.

14. This order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation as per law.

15. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offence in this FIR, and if the new section prescribes maximum sentence which is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above, then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days providing an opportunity to avail the remedies available in law.

16. 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.

17. In return for the protection from incarceration, the Court believes that the accused shall also reciprocate through desirable behavior.

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

(ANOOP CHITKARA)
JUDGE

February 08, 2022

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Whether speaking/reasoned:	Yes
Whether reportable:	No.