

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53400-2021
Reserved on: 05.01.2022
Pronounced on: 10.01.2022

Rahul Singh & others

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gursimran Singh Madaan, Advocate
for the petitioners.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

Mr. Lalit Sharma, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
154	05.11.2021	Division No.1, Pathankot	341, 307, 379-B, 506, 148, 149 IPC

1. The petitioners, incarcerated upon their arrest in the FIR captioned above, came up before this Court under Section 439 CrPC seeking bail.
2. Para 7 of the bail petition mentions no criminal history of the petitioners except the present FIR.
3. It is for the first time that the petitioners have approached this Court for regular bail.
4. A brief narration of allegations levelled against the petitioners, which are relevant for deciding the present petition, is that the petitioners along with a group of 8-9 other boys gave blow of bottle of liquor on the head of the complainant. Some of them also hit him with bricks and snatched Rs.10,000/-

from him.

5. 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 their families.

6. Learned State counsel has opposed the bail to the petitioners on the ground that there are serious allegations against them.

7. The submission on behalf of the complainant is that they have no objection if bail is granted to the petitioners. It is further submitted that the complainant has given an affidavit to this effect without any pressure or duress.

REASONING:

8. Considering the age of the petitioners to be just 18 and 20 years, which is a reformatory age, coupled with the fact that the petitioners are first offenders and have no criminal past, this Court is of the view that the petitioners deserve the concession of bail.

9. In Gurbaksh Singh Sibbia v State of Punjab, 1980 (2) SCC 565, (Para 30), a Constitutional Bench of Supreme Court held that the bail decision must enter the cumulative effect of the variety of circumstances justifying the grant or refusal of bail. In Kalyan Chandra Sarkar v Rajesh Ranjan @ Pappu Yadav, 2005 (2) SCC 42, (Para 18) a three-member Bench of Supreme Court held that the persons accused of non-bailable offences are entitled to bail if the Court concerned concludes that the prosecution has failed to establish a *prima facie* case against them, or despite the existence of a *prima facie* case, the Court records reasons for its satisfaction for the need to release such persons on bail, in the given fact situations. The rejection of bail does not preclude filing a subsequent application. The Courts can release on bail, provided the circumstances then prevailing requires, and a change in the fact situation. In State of Rajasthan v Balchand, AIR 1977 SC 2447, (Para 2 & 3), Supreme Court noticeably illustrated that the basic rule might perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the Court. It is true that the gravity of the offence involved is likely to induce the

petitioners to avoid the course of justice and must weigh when considering the question of jail. So also, the heinousness of the crime. In Gudikanti Narasimhulu v Public Prosecutor, (1978) 1 SCC 240, (Para 16), Supreme Court held that the delicate light of the law favors release unless countered by the negative criteria necessitating that course. In Prahlad Singh Bhati v NCT, Delhi, (2001) 4 SCC 280, Supreme Court highlighted one of the factors for bail to be the public or the State's immense interest and similar other considerations. In Dataram Singh v State of Uttar Pradesh, (2018) 3 SCC 22, (Para 6), Supreme Court held that the grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously, compassionately, and in a humane manner. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.

10. 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.

11. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioners make a case for 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.

12. Provided the accused is not required in any other case, the petitioners shall be released on bail in the FIR mentioned above, subject to furnishing personal bonds of Rs. Ten thousand (INR 10,000/-) each, and shall furnish one surety of Rs. Twenty-five thousand (INR 25,000/-) each, to the satisfaction of the trial Court / Chief Judicial Magistrate having the jurisdiction over the Police Station conducting the investigation, and in case of non-availability, any Illaqa Magistrate/duty Magistrate. Before accepting the sureties, the concerned Court must satisfy that in case the petitioners-accused fail to appear in Court, then such sureties are capable to produce the petitioners-accused before the Court, keeping in mind the jurisprudence behind the sureties, which is to secure the presence of the accused.

13. On the reverse page of personal bonds, the attesting officer shall mention the permanent address of the petitioners 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 petitioners 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 petitioners 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.

15. The petitioners shall join the investigation as and when called by the Investigating Officer or any Superior Officer; and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, it will be open for the prosecution to seek cancellation of the bail. Whenever the investigation occurs within the police premises, the petitioners shall not be called before 8 AM and shall be let off before 5 PM, and shall not be subjected to third-degree, indecent language, inhuman treatment, etc. Once the trial begins, the petitioners shall not, in any manner, try to delay the proceedings and undertakes to appear before the concerned Court and to attend the trial on each date, unless exempted. In case of an appeal, on this very bond, the petitioners also promise to appear before the higher Court in terms of Section 437-A Cr.P.C.

16. The petitioners 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. Given the nature of allegations and the other circumstances peculiar to this case, the petitioners shall surrender all weapons, firearms, ammunition, if any, along with the arms license to the concerned authority within 30 days from today and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioners shall be entitled to renew and take it back in case of acquittal in this case.

18. During the trial's pendency, if the petitioners repeat 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. The petitioners shall bring it to the notice of the concerned court seized of the subsequent application about earlier caution 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.

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

20. In case the petitioners find the 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 petitioners 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.

21. 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.

22. 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.

23. 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.

24. The Court believes that the accused shall reciprocate the bail through desirable behavior.

25. *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.

(ANOOP CHITKARA)
JUDGE

January 10, 2022

Whether speaking/reasoned: Yes
Whether reportable: No