

CRM-M-No.54821 of 2021
Date of Decision : 04.01.2022

Versus

State of Punjab ...Respondent

CORAM : HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. H.P.S. Sidhu, Advocate
for the petitioner.

(Through Video Conferencing)

ANOOP CHITKARA, J (ORAL)

FIR No.	Dated	Police Station	Sections
185	03.11.2021	Kot Ise Khan, District Moga.	307, 336, 427, 506, 148, 149 of IPC, 1860 and Section 25 of Arms Act, 1959.

Apprehending arrest in the above captioned FIR, the accused have come up before this Court under Section 438 Cr.P.C., seeking anticipatory bail.

NOTICE.

2. Mr. Rana Harjasdeep Singh, learned Deputy Advocate General, Punjab, waives service, and accepts notice on behalf of the respondent and opposes the accused's interim protection from arrest. On instructions from ASI Nirmal Singh, learned State counsel submits that the investigator wants to arrest the petitioner because custodial investigation is required in the present case.

3. Brief facts of the case are that some unknown persons had fired shots upon the house of the complainant due to old grudge with each other.

4. Learned counsel for the petitioners submits that the petitioners have been falsely implicated in the present case and in fact they were not present at the spot when the incident happened. The petitioners have no role in the said incident. As per the FIR, no injury is attributed to the petitioners. He further submits that both the parties i.e. complainant and the petitioners (accused) are close relatives and the present FIR has been lodged due to some misunderstanding between them and now they have entered into compromise (Annexure P-2) and they do not want to pursue the present FIR. The petitioners have no criminal antecedents.

5. Given the nature of allegations and the compromise (Annexure P-2) entered into between the parties couple with the fact that the petitioner have no criminal history, no pre-trial incarceration is required. Without commenting on the case's merits and the circumstances peculiar to this case, the petitioners makes a case for release on 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 Cr.P.C., 1973.

6. The petitioners shall be released on bail in the FIR mentioned above, subject to furnishing a personal bond of Rs. Ten thousand (INR 10,000/-), and with one surety of Rs. Twenty-five thousand (INR 25,000/-), to the satisfaction of the Investigator. Before accepting the surety, the Attesting Officer must satisfy that in case the accused fails to appear in Court, then such sureties are capable to produce the accused before the Court, keeping in mind the Jurisprudence behind the sureties, which is to secure the presence of the accused.

7. The furnishing of the personal bond shall be deemed acceptance of the following and all other stipulations, terms, and conditions of this bail order:

a) The petitioner to execute a bond for attendance in the concerned Court(s). Once the trial begins, the petitioner 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 petitioner also promises to appear before the higher Court in terms of Section 437-A Cr.P.C.

b) The attesting officer shall, on the reverse page of personal bonds, mention the permanent address of the petitioner along with the phone number(s), WhatsApp number

(if any), e-mail (if any), and details of personal bank account(s) (if available), and in case of any change, the petitioner shall immediately and not later than 30 days from such modification, intimate about the change of residential address and phone numbers, WhatsApp number, e-mail accounts, to the Police Station of this FIR to the concerned Court.

c) 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 of the case, to dissuade them from disclosing such facts to the Police, or the Court, or to tamper with the evidence.

d) 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 may be 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 petitioner 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.

8. During the period of bail, if the petitioners 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.

9. Any Advocate for the petitioners and the Officer in whose presence the petitioners puts signatures on personal bonds shall explain all conditions of this bail order, in vernacular and if not feasible, in Hindi.

10. In case the petitioners finds 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 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.

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

12. 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.

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

14. The petitioner shall surrender all weapons, firearms, ammunition, if any, along with the arms license to the concerned authority before the next date 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.

15. The petitioner shall, under no circumstances, contact, call, text, remarks, stalk, stare, make any gestures, show or express any unusual or inappropriate, verbal or otherwise objectionable behavior, to or in front of the victim, either physically or through any other mode, or roam around the victim's home, and shall also stay away 1 km. from the house of the victim till the recording of statement of the victim.

16. There would be no need for a certified copy of this order for furnishing bonds. Any Advocate for the petitioners can download this order along with the case status from the official web page of this Court and attest it to be a true copy. The Prosecutor shall also verify the downloaded copy by comparing it from the official web page. In case the attesting officer or the Court 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.**

(ANOOP CHITKARA)
JUDGE

January 04, 2022
Manpreet

Whether speaking/reasoned
Whether reportable

Yes
No