

**203 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-54792-2021
Date of Decision : 01.02.2022**

Chanderjot Singh Dhillon ...Petitioner

Versus

State of Haryana ...Respondent

CORAM : HON'BLE MR. JUSTICE ANOOP CHITKARAPresent: Mr. Bhupinder Ghai, Advocate
for the petitioner.

Mr. Rajat Gautam, DAG, Haryana.

Mr. Sachin Rai Vaid, Advocate for the complainant.

ANOOP CHITKARA, J (ORAL)

FIR No.	Dated	Police Station	Sections
521	29.11.2021	Naraingarh, District Ambala.	406, 420, 506 and 120-B of IPC, 1860

The petitioner, apprehending arrest came up before this Court under Section 438 Cr.P.C., seeking anticipatory bail.

2. Vide order dated 04.01.2022, the petitioner was granted interim anticipatory bail.

3. Learned State counsel on instructions received from ASI Ramesh Kumar submits that the petitioner has joined the investigation and is not required for custodial investigation.

4. Learned counsel for the complainant has opposed the bail on the following grounds :-

i) that the petitioner had made a wrong statement while taking interim relief to the extent mentioned in paragraph 1 of the interim order;

ii) the petitioner had sent forged pamphlets to allure the investor in the State of Himachal Pradesh;

iii) the recovery is yet to be effected.

5. The property in dispute situates within the State of Himachal Pradesh. The complainant twisted the complainat in such a clever manner so that the jurisdiction is shifted to the State of Haryana. A further reference to paragraph 9 of the petition makes out a case for bail.

6. Given the nature of allegations, no pre-trial incarceration is required. Without commenting on the case's merits and the circumstances peculiar to this case, the petitioner 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.

7. 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 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.

8. In Mahidul Sheikh v. State of Haryana, CRM-33030-2021 in CRA-S-363-2020, decided on 14-01-2022, Para 53, 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, the petitioner in the alternative may furnish a personal bond of Rs. Ten Thousand only (INR 10,000/-), and hand over to the the attesting officer, a fixed deposit(s) for Rs. Ten Thousand only (INR 10,000/-), made in favour of Chief Judicial Magistrate of the concerned district. Such Fixed deposits 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 principal, and the interest reverting to the linked account. The arresting officer shall give a time of ten working days to enable the accused to prepare a fixed deposit. Such a 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 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 officer shall have a lien over the deposit until discharged by substitution, and in case any court takes cognizance, then such court, upon which the investigator shall hand over the deposit to such court, which shall have a lien over it up to the expiry of the period mentioned under S. 437-A CrPC, 1973, or until discharged by substitution as the case may be. If any, 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.

10. 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 for substitution of fixed deposit with surety bonds and vice-versa.

11. The petitioner 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. Whenever the investigation occurs within the police premises, the petitioner shall not be called before 10 AM and shall be let off before 5 PM, and shall not be subjected to third degree, indecent language, inhuman treatment, etc.

12. 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.

13. 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.

14. 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.

15. 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.

15. Given above, the present petition is allowed. The order dated 04.01.2022 is hereby made absolute subject to the condition that the petitioner shall fully cooperate with the investigator.

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.

(ANOOP CHITKARA)
JUDGE

February 01, 2022
Manpreet

Whether speaking/reasoned	Yes
Whether reportable	No