

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRWP-441-2023 (O&M)
Date of Decision:- 16.1.2023

Sajan Sharma ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Petitioner in person.

GURVINDER SINGH GILL, J.

1. The petitioner, present in person, has preferred this criminal writ petition seeking compensation to the tune of ₹50 lacs to be awarded to him as personal damages on account of his wrongful confinement by Judicial Magistrate First Class, Amritsar pursuant to order dated 15.12.2022 and also to take strict action against respondents for violation of Articles 14, 19(1) and 21 of the Constitution of India.
2. Another prayer has been made for issuance of a direction to preserve the CCTV footage, as recorded in CCTV camera installed at the main entrance gate of Court premises, pertaining to 15.12.2022 and also in respect of CCTV camera installed at the main entrance gate of Police Station, B-Division, Amritsar pertaining to 15.12.2022. Another prayer has been made so as to provide security to life and liberty of the petitioner and to other members of his family.

3. FIR No. 341 dated 21.12.2020 was lodged against the petitioner for offences under Section 323, 325, 34, 201, 294 IPC, at Police Station B-Division, Amritsar. The petitioner had been granted bail in the aforesaid FIR. However, the petitioner absented before the trial Court on 19.11.2022 and consequently, his bail was cancelled and surety bonds in the shape of FDRs was ordered to be forfeited, as would be evident from the *zimni* orders of the said date annexed as Annexure P-1. The trial Court had initially taken up the file at 10 A.M. when no accused was present and thereafter at 11 A.M. when again none was present and then at 11:30 A.M. when again none was present and thereafter at 11:45 A.M. when co-accused Narinder Sharma appeared but the petitioner did not appear and consequently, the trial Court cancelled his bail.
4. The petitioner, aggrieved by the cancellation of his bail, approached this Court by way of filing two different petitions i.e. CRM-M-57965-2022 challenging cancellation of his bail and also CRM-M-58405-2022 seeking grant of anticipatory bail. This Court disposed of both the petitions by passing a common order on 14.12.2022. The operative portion of the said order dated 14.12.2022 reads as follows :-

“2. Having heard learned counsel for the petitioner, both the aforesaid petitions are disposed of with a direction that in case the petitioner surrenders before the trial Court by tomorrow i.e. 15.12.2022 and moves an application for grant of regular bail, the trial Court shall consider the same expeditiously while taking into account the observations made in concluding paragraph of judgment passed by this Court in CRM-M-39172 of 2021 titled **Pawan Kumar Vs. State of Haryana and another** decided on 21.09.2021, which reads as under:

‘12. Before parting with this order, it needs to be added that this Court cannot lose sight of the fact that there would be certain cases where an accused is unable to appear before the trial Court on account of genuine reasons, say on account of having noted the date incorrectly or on account of certain reasons which are beyond his control. In such cases, the accused can surrender before the trial Court and it is expected that the trial Courts would take a lenient view in genuine cases and decide the regular bail application expeditiously. In a given set of circumstances where the trial Court is satisfied that there were valid reasons for the absence of an accused and that he has surrendered at the shortest possible time, the trial Court can in fact dispose of the regular bail application on the very day the same is presented by accused upon his surrender. The trial Court, in its discretion, may also chose to grant interim bail, in fit cases, but only after surrender of accused.’

3. Since the absence of the petitioner on 19.11.2022 is stated to be the first instance of default on his part and the petitioner is a young boy pursuing C.A., the trial Court is expected to take a lenient view in the matter.
4. It is, however, directed that in case the trial Court chooses to grant bail to the petitioner, then FDRs, which were ordered to be forfeited, be released.”
5. While the aforesaid order was passed on 14.12.2022, the matter was already fixed before the trial Court for 15.12.2022 pursuant to issuance of non-bailable warrants against the petitioner. It appears that when the matter was called initially before the trial Court, the petitioner was not present, as has been specifically recorded in order dated 15.12.2022 (Annexure P-6) which reads as under :-

“CNR No:PBAS030142482021

CIS No. CHI/1623/2021

STATE OF PUNJAB VS NARINDER SHARMA etc.

Present : APP for the State
Complainant with counsel Sh. Sukhdeep Singh, Advocate
Accused Narinder Sharma on bail present in the Court today.
None for accused Sajjan Sharma.

Non bailable warrants issued to accused Sajjan Sharma not received back. Fresh non bailable warrants to accused be issued for 09.03.2023.

Date of Order : 15.12.2022

(Sumukhi)
Judicial Magistrate First Class”

6. Subsequently, the petitioner appeared before the trial Court and moved an application for grant of bail at 3 P.M., as is specifically recorded in order dated 15.12.2022 (Annexure P-3) and the trial Court, in compliance of order passed by this Court on 14.12.2022 (Annexure P-2), directed that the petitioner be released on bail subject to his furnishing bail bonds and surety bonds to the tune of ₹1 lac with one surety. However, it appears that bail bonds and surety bonds were not furnished on the said day, as is specifically recorded in said order dated 15.12.2022.
7. The petitioner submits that the trial Court did not accept his bail bonds, though he was having ₹1 lac with him. The petitioner in this regard has drawn the attention of this Court to an accounts statement of his bank account maintained in Canara Bank, annexed as Annexure P-4. A perusal of the said statement would indicate that from 30.11.2022 onwards upto the morning of 15.12.2022, the maximum balance at any point of time was ₹33,646/- which was on 7.12.2022. As on 15.12.2022 at 3:24 P.M. the balance was ₹356.54/-. However, an amount of ₹1 lac was deposited at

4:46 P.M., raising the balance to ₹1,00,356.54/-. The aforesaid two relevant entries are reproduced herein- under :-

Date	Particulars	Deposits	Withdrawals	Balance
15.12.2022	UPI/DR/234932843574/ RAJANSHA/BKID/ **42000@OKHDFCBANK/ UPI/ HDFD0E0D8B47EA54E25AED E62753FADD381/12/12/2022 <u>15:24:52</u>		15,000.00	356.54
15.12.2022	UPI/CR/234934160607/ GAURAVPRE/HDFC/ **RAV41@OKHDFCBANK/ UPI/ HDF530F9608BF334A6C8BB57 4E9D9BEAB11/15/12/2022 <u>16:46:25</u>	1,00,000.00		1,00,356.54

8. The aforesaid entries do show that pursuant to deposit of an amount of ₹1 lac at 4:46 P.M. in the bank account of the petitioner on 15.12.2022, the balance in his bank account was 1,00,356.54/- but mere credit of an amount of ₹1 lac cannot be construed to mean that the petitioner had furnished a surety of an amount of ₹1 lac to the trial Court on 15.12.2022, particularly in the absence of any such order on an application. The amount of ₹1 lac which was deposited in the bank account of petitioner at 4:46 P.M. on 15.12.2022 was never withdrawn on said day. While an amount of ₹40,000/- was withdrawn on 18.12.2022, an amount of ₹50,000/- was withdrawn on 19.12.2022. As such, it cannot be inferred that the trial Court had declined to accept the bail bonds leading to his unnecessary detention despite bail order dated 15.12.2022. It is only when the petitioner furnished bail bonds which he furnished on 19.12.2022 that the bail bonds furnished by him were accepted by the trial Court and consequently, the petitioner was released, as has been specifically stated in para 8 of the petition. A perusal of the deposit slip (Annexure P-5) also indicates that it

was only on 19.12.2022 that the amount of ₹1 lac was deposited by the petitioner before the trial Court which was apparently towards surety. The petitioner was released on 19.12.2022, when he furnished bail bonds.

9. In view of the aforestated factual position, it cannot be said that the petitioner was illegally detained. Rather, it was on account of the petitioner not having furnished bail bonds upto 19.12.2022 that his release order was not issued by the trial Court. Consequently, no fault can be found in the proceedings in this regard as conducted by the learned Judicial Magistrate First Class, Amritsar. Resultantly, there is no ground for awarding any compensation to the petitioner. The prayer in this regard by the petitioner is hereby declined.
10. Another relief that is sought by the petitioner that a direction be issued to the trial Court to preserve the video footages, as recorded in the CCTV cameras installed in the Court complex and also in the Police Station. This Court does not deem proper to pass any order at this stage. Needless to mention, it shall always be open to the petitioner to move an appropriate application before the trial Court in this regard. In case any such application is filed, the same shall be considered in accordance with law.
11. As regards, the prayer of the petitioner regarding issuance of direction to protect his life and liberty, it shall be open to the petitioner to move an appropriate application in this regard to the SSP/Commissioner of Police concerned delineating all the relevant facts leading to his apprehension, as regards his security. In case, any such application is filed, the same shall be got examined as regards the alleged threat perception of the petitioner and be disposed of in accordance with law.

12. The petition stands disposed of accordingly.

13. Since, this Court finds that the petitioner has moved another petition in this Court i.e. CRM-M-18 of 2023 stated to be fixed for 27.1.2023, Registry is directed to bring to the notice of the Court the factum of filing of instant petition. The State counsel to also apprise the said Court as it appears that several petitions have been filed by the petitioner.

16.1.2023

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No