

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11466-2022 (O&M)
Date of order: 12.04.2023

Anand Prakash Handa
...Petitioner(s)
Versus
Assistant Director and another
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sardavinder Goyal, Advocate
for the petitioner.
Mr. Shobit Phutela, Advocate for respondent no.1-ED.
Mr. R.S. Dhaliwal, Advocate for
Mr. Rajeev Anand, Advocate for respondent no.2-CBI.

ANOOP CHITKARA, J. (Oral)

FIR No.	Dated	Police Station	Sections
3	22.9.2021	Mohali, SAS Nagar	44, 45 of Prevention of money Laundering Act, 2002, as defined under Section 3 read with Section 70 and punishable under Section 4 of the Act.

1. The petitioner apprehending arrest in the FIR captioned above, had come up before this Court under Section 439 CrPC seeking interim bail with permission to surrender.
2. Vide order dated 03.03.2023, the petitioner was granted interim protection and he was permitted to appear before trial Court, which is continuing till date.
3. Petitioner's counsel submitted that the main accused in the present case is Vikram Seth, who had availed 19 loans from the complainant-Bank fraudulently through criminal conspiracy using forged documents. The petitioner was an employee with said Vikram Seth working as Manager in a brick-kiln on monthly salary of Rs.20,000/-. He had no role in said illegal acts. He further submits that he has no objection to imposing any stringent conditions in case of grant of bail. The petitioner's counsel argued that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family. He further submits that he has already complied with all the conditions, as

imposed upon him.

4. The State's counsel opposes the bail.

REASONING:

5. In Sanjay Chandra v. Central Bureau of Investigation, (2012) 1 SCC 40, Supreme Court holds,

[28] We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardize the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.

6. Thus, there would be no justification to keep this bail pending waiting for the proper investigation, if any pending. The petitioner was granted interim protection and pursuant to that protection, he appeared before trial Court, and during the interregnum, there is no allegation that he had hampered the investigation, or despite being called to appear in Court or join the investigation, he did not appear. Given the above, there would be no justification to discontinue the interim protection, and he is admitted to bail subject to the petitioner complying with the terms and conditions of the bail order and also the additional 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.

7. Within fifteen days from today, the petitioner shall forward to the Investigator/SHO and the complainant/victim(s) the complete details of bank account numbers with addresses, fixed deposits, DEMAT account numbers, the current market value of jewelry, sovereign metals, all precious articles, held either individually or jointly, and cash-in-hand, (if not supplied so far). ***If the petitioner fails to comply with this condition, then on this ground alone. In that case, the bail might be canceled, and the complainant may file any such application for the cancellation of bail, and State shall file the said application.***

8. Within fifteen days from today, the petitioner shall procure a smartphone and inform its IMEI number and other details to the SHO/I.O. of the Police station mentioned before. The petitioner shall always keep the phone location/GPS on the "ON" mode. Whenever the Investigating officer asks to share the location, the petitioner shall immediately do so. The petitioner shall neither clear the location

history, WhatsApp chats, calls nor format the phone without permission of the concerned SHO/I.O. This condition shall continue till the completion of the trial or closure of case, whatever is earlier.

9. In return for the protection from incarceration, the Court believes that the accused shall also reciprocate through desirable behavior. **It is clarified that in case the petitioner does not mend his ways and repeats the offence or indulge in criminal behaviour, then in all future matters, the concerned courts shall keep it as a factor that this court had afforded a final opportunity to the petitioner to reform and live a normal life but did not mend his ways.**

10. The conditions mentioned above imposed by this court are to endeavour that the accused does not repeat the offence and to ensure the safety of the witnesses, victim, and their families. 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. In Sumit Mehta v. State of N.C.T. of Delhi, (2013)15 SCC 570, Para 11, Supreme Court holds that while exercising power Under Section 438 of the Code, the Court is duty-bound to strike a balance between the individual's right to personal freedom and the right of investigation of the police. While exercising utmost restraint, the Court can impose conditions countenancing its object as permissible under the law to ensure an uninterrupted and unhampered investigation. In Mohammed Zubair v. State of NCT of Delhi, Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon'ble Supreme Court holds that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."

Petition allowed in aforesaid terms. Interim order is made absolute subject to strict compliance of all terms and conditions. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

April 12, 2023
pry/AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No