

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10002-2022 (O&M)
Date of order: 11.04.2023

Saiyrah Garg @ Deepika Garg

...Petitioner(s)

Versus

Assistant Director, Directorate of Enforcement (Prevention of Money Laundering Act).

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Deepak Gupta, Advocate and
Mr. Yogendra Pundir, Advocate
for the petitioner(s).

Mr. Satya Pal Jain, Additional Solicitor General of India with
Ms. Sharmila Sharma, Sr. Panel Counsel
for respondent-ED.

ANOOP CHITKARA, J. (Oral)

Complaint No.	Dated	Sections
COMA/15/2017	22.12.2017	3 and 4 of Prevention of Money Laundering Act, 2002

1. The petitioner apprehending arrest in the complaint captioned above, has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 23 of the bail petition, the accused declares that she has no criminal antecedents.
3. Vide order dated 9.3.2022, the petitioner was granted interim protection, which is continuing till date.
4. 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.
5. The State’s counsel opposes the bail.

REASONING:

6. The petitioner was granted interim protection, and during the interregnum, there

is no allegation that he had intimidated the victim or victim's family or the witnesses or that he had hampered the investigation, or despite being called to join the investigation, he did not appear before the investigator. Given the above, there would be no justification to discontinue the interim protection, and the same is made absolute subject to the petitioner complying with the terms of the bail order and the following conditions.

7. Within fifteen days from today, the petitioner shall forward to the Investigator and the complainant/victim(s) the complete details of bank account numbers with addresses, fixed deposits, DEMAT account numbers, the current market value of jewellery, sovereign metals, all precious articles, held either individually or jointly, and cash-in-hand, if she has not complied with interim order dated 9.3.2022. ***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 smart phone and inform its IMEI number and other details to the 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 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 her 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. 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 11, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No