

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

**Neutral Citation No. 2023:PHHC:042701
CRM-M-12562-2023
Date of Decision: March 22, 2023**

Fernando Benz

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Ms. Garima Sharma, Advocate for the petitioner.

Mr. Randhir Singh, Addl. A.G., Haryana.

DEEPAK GUPTA, J.(Oral)

Petitioner is confined in jail in case FIR No.384, dated 03.10.2022, registered at Police Station Khedki Daula, District Gurugram, under Section 21-B of the NDPS Act, 1985 and Section 14 of the Foreigners Act.

Petitioner, who is a Nigerian citizen, was allowed bail by learned Additional Sessions Judge, Gurgugram, vide order dated 21.02.2023, but condition was imposed that the surety to be furnished by the petitioner should be a person of his nation, permanently residing in India.

This petition has been filed to modify the conditions of the bail. It is submitted that petitioner has no relative or friend of his country permanently residing in India nor his family in Nigeria knows any such person and therefore, the condition imposed by learned Additional Sessions Judge, Gurguram, is quite stringent, which the petitioner is unable to fulfill.

Procuring the presence of an accused in a trial is one of the most important aspect to be taken into consideration for granting bail. At

the same time, a balance is required to be struck by imposing conditions for grant of bail. Petitioner being a Nigerian citizen, may not be in a position to arrange a surety of his nation permanently residing in India.

In view of the above, the condition of bail allowed to the petitioner is hereby modified to the following effect:-

1. Petitioner shall be released on bail on his furnishing personal bail bonds. In addition petitioner shall deposit an amount of ₹2,00,000/- before the Trial Court. Upon the deposit of such amount, the Trial Court shall get the same invested in some FDR with some nationalized bank with a direction to the Manager of the concerned bank not to encash the same except under the order of the Court. In case, petitioner is declared innocent or acquitted and such acquittal attains finality, the petitioner shall be entitled to proceed of the said FDR. However, in case, the petitioner absconds or is found guilty and is convicted and such conviction attains finality, the same shall be forfeited to the State.
2. Apart from above, petitioner shall surrender his passport before the Trial Court.
3. Petitioner shall provide his mobile number to the Trial Court and will not change the same without intimation to the Court.
4. Petitioner shall not make any attempt to prolong the trial and shall appear on each and every date of hearing. He

shall not move any application for seeking exemption except
in case of medical emergency.

With the aforesaid modified directions, present petition
stands disposed of.

March 22, 2023
sarita

(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking: Yes/No
Whether reportable: Yes/No