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

**CRM-M-15840-2023 (O&M)  
Date of decision : 24.07.2023**

Hardeep Singh @ Lali

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present: Mr. Mohit Malik, Advocate,  
for the petitioner.

Mr. Joginder Pal Ratra, Sr. DAG, Punjab.

Mr. G.S. Sandhu, Advocate,  
for the complainant.

**MAHABIR SINGH SINDHU, J.**

Present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of pre-arrest bail to the petitioner in FIR No.09 dated 21.02.2023, under Section 306 of the Indian Penal Code, 1860 (for short, '*the IPC*'), registered at Police Station Bhadaur, District Barnala.

2. It transpires that complainant-Paramjit Kaur, got registered the present FIR on the allegations that petitioner abetted her husband, Admer Singh, to commit suicide.

3. The Coordinate Bench vide order dated 11.04.2023, granted interim bail to the petitioner and relevant part of the same reads as under:-

“

| FIR No. | Dated      | Police Station            | Section |
|---------|------------|---------------------------|---------|
| 09      | 21.02.2023 | Bhadaur, District Barnala | 306 IPC |

1. The petitioner apprehending arrest in the FIR captioned above, on the allegations of abetting suicide of a farmer whose money he allegedly owed and was refusing to payfor last two years under one pretext or the other, has come up before this Court under Section 438 CrPC seeking anticipatory bail on the grounds that he did not instigate the deceased to commit suicide.
2. In paragraph 18 of the bail petition, the accused declares that he has no criminal antecedents.
3. Petitioner's counsel prays for bail by imposing any stringent conditions. 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.
4. State’s counsel as well as counsel for the complainant oppose the bail.
5. **To enable the petitioner to join interrogation and to find his role, this court deems it appropriate to release him on interim bail. The concerned DySP to fileresponse before the next date, about the investigation and recovery of the alleged amount. In case the DySP fails to file reply, then upon adjournment, their superior officer shall file response.**
6. The possibility of the accused influencing the investigation, tampering with evidence, intimidating witnesses, and the likelihood of fleeing justice, can be taken care of by imposing elaborative and stringent conditions. 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.*

7. *Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner is being given interim bail till the next date, 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 CrPC, 1973.*

8. *In Mahidul Sheikh v. State of Haryana, Neutral Citation No: 2022:PHHC:003277, [Para 53], Law Finder Doc Id # 1933969], 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, provided the petitioner is not required in any other case, the petitioner shall be released **on interim bail till the next date**, in the FIR captioned above, in the following terms:*

*(a). Petitioner to furnish personal bond of Rs. Ten thousand (INR 10,000/-); AND*

*(b) To give one surety of Rs. Twenty-five thousand (INR 25,000/-), to the satisfaction of the concerned investigator/SHO. Before accepting the surety, the concerned officer must satisfy that if the accused fail to appear in court, then such surety can produce such accused before the court.*

*OR*

*(b) Petitioner to hand over to the concerned investigator/SHO a fixed deposit for Rs. Ten Thousand only (INR 10,000/-), with the clause of automatic renewal of the principal and the interest reverting to the linked account, made in favour of the 'Chief Judicial Magistrate' of the concerned district. The fixed deposit 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 sector banks. The fixed deposit need not necessarily be made from the petitioner's account.*

(c). In case of the launching of the prosecution, the said fixed deposit be forwarded to the concerned court along with the police report/challan under 173 CrPC.

(d). Such court shall have a lien over the deposit until the case's closure, or discharged by substitution, or up to the expiry of the period mentioned under S. 437-A CrPC, 1973, and at that stage, 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.

(e). It shall be the discretion of the petitioner to choose between surety bonds and fixed deposits. It shall also be open for the petitioner to apply to the Investigator or the concerned court to substitute the fixed deposit with surety bonds and vice-versa.

(f). On the reverse page of personal bond, the petitioner shall mention her/his permanent address along with the phone number, preferably that numbers which is linked with the AADHAR, 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.

(g). The petitioner is 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 declarations made in the bail petition and all other stipulations, terms, and conditions of section 438(2) of the Code of Criminal Procedure, 1973, and also of this bail order.

10. The petitioner is directed to join the investigation within seven days and also as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. 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 required. In the event of failure to do so, it will be open for the prosecution to seek cancellation of the bail. Whenever the investigation occurs within the police premises, the petitioner shall not be called before 8 AM, let off before 6 PM, and shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

11. The petitioner shall not influence, browbeat, pressurize, make any inducement, threat, or promise, directly or indirectly, to the witnesses, the Police officials, or any other person acquainted with the facts and the

*circumstances of the case, to dissuade them from disclosing such facts to the Police, or the Court, or to tamper with the evidence.*

12. *Within fifteen days from today, the petitioners shall forward to the Investigator/SHO and the complainant/victim(s), by way of two separate notarized affidavits, 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 the petitioner fails to comply with this condition, then on this ground alone the bail might be cancelled, and the complainant may file any such application for the cancellation of bail, and State shall file the said application.*

13. *During the trial's pendency, if the petitioner repeats or commits any offence where the sentence prescribed is more than seven years or violates any condition as stipulated in this order, it shall always be permissible to the respondent to apply for cancellation of this bail. It shall further be open for any investigating agency to bring it to the notice of the Court seized of the subsequent application that the accused was earlier cautioned not to indulge in criminal activities. Otherwise, the bail bonds shall remain in force throughout the trial and after that in Section 437-A of the Cr.P.C., if not canceled due to non-appearance or breach of conditions.*

14. *The conditions mentioned above imposed by this Court are to endeavour that the accused does not repeat the offence and to provide an opportunity to the victim to consider legal remedies for recovery of the amount. 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.” 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.”*

15. *Any Advocate for the petitioner and the Officer in whose presence the petitioner puts signatures on personal bonds shall explain all conditions of this bail order in any language that the petitioner understands.*

16. *If the petitioner finds bail condition(s) as violating fundamental, human, or other rights, or causing difficulty due to any situation, then for modification of such term(s), the petitioner may file a reasoned application before this Court, and after taking cognizance, even to the Court taking cognizance or the trial Court, as the case may be, and such Court shall also be competent to modify or delete any condition.*

17. *This order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation as per law.*

18. *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.*

*19. 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.*

*20. In return for the protection from incarceration, the Court believes that the accused shall also reciprocate through desirable behavior.*

*21. There would be no need for a certified copy of this order for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

***List on 25 April 2023. ”***

4. Contends that in terms of the aforesaid interim order, the petitioner has already joined investigation and his custodial interrogation is not required.

5. The above factual position is duly acknowledged by learned State Counsel, on instructions from the police officer concerned and further stated that custodial interrogation of petitioner is not required at this stage.

6. Although, learned counsel for the complainant objected against the prayer of petitioner, but in view of fact that State of Punjab is not seeking custodial interrogation; therefore, objection raised by learned counsel for the complainant is rejected.

7. As a result of thereof, interim order dated 11.04.2023, is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
8. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
9. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
10. Disposed off accordingly.

24.07.2023  
*atulsethi*

(MAHABIR SINGH SINDHU)  
JUDGE

|                               |     |    |
|-------------------------------|-----|----|
| Whether speaking / reasoned : | Yes | No |
| Whether Reportable :          | Yes | No |