

211

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

CRM-M-17561-2022
Decided on: 13.04.2023

Vikash Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Keshav Pratap Singh, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
437	26.12.2021	Uchana, District Jind	120-B, 419, 420 IPC, 1860, Section 66-D of Information Technology (Amendment)Act 2008 and Section 8 of Haryana Public Examination (Prevention of unfair Means) Act 2021 (Section 419 IPC 1860, Section 66-D of IT Act 2008 and Section 8 of H.P.E. Act 2021 were deleted later on)

1. The petitioner apprehending arrest in the FIR captioned above, has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. On 28.04.2022, the petitioner was granted interim bail, which is continuing till date.
3. The petitioner claims bail on the grounds that he has been arraigned as an accused on disclosure statement. Petitioner's counsel submits that there is no other evidence except disclosure statement, against the petitioner.
4. At this stage, State counsel submits that they have recovered mobile phone from the petitioner and they have sent the same to the laboratory and the evidence in the laboratory might implicating him. He further submits that it would take atleast two months time to get the report. This petition cannot be kept pending simply waiting for

the report of laboratory.

5. At this stage, petitioner's counsel submits that he be given bail for three months with liberty to file fresh bail petition in case report of the laboratory comes against him. He further submits that the investigating officer should send him a one week notice in this regard.

6. Prayer being genuine, is accepted.

7. Given above, the petitioner shall be released on interim bail **for three months**, 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.

8. 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 might be 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 and shall be let off before 6 PM, and shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

9. The petitioner is directed to apply for fresh bail petition in case, report of the laboratory comes against him. The disposal of the present petition should not come in the way if the petitioner chooses to file a fresh petition, which shall be decided on its merits without being influenced by this order.

10. 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 continue to remain in force throughout the trial and after that in terms of Section 437-A of the Cr.P.C.

11. 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.

12. If the petitioner finds bond amount beyond social and financial reach, it may be brought to the notice of this Court for appropriate reduction. Further, 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.

13. 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.

14. 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.

15. Any observation made hereinabove is neither an expression of opinion on the merits of the case.

16. *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.*

Petition is allowed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

13.04.2023
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Whether speaking/reasoned: Yes
Whether reportable: No.