

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34752-2021
Reserved on: 21.02.2023
Pronounced on: 11.04.2023

Surinder Parkash Singh Dhindsa ...Petitioner

Versus

Union Territory Chandigarh and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. P.S. Ahluwalia, Advocate for the petitioner

Mr. Abhinav Gupta, APP, UT, Chandigarh
assisted by ASI Surinder Singh.

Mr. Dharam Vir Sharma, Sr. Advocate with
Ms. Sunder Kumari, Advocate;
Mr. Tushar Sharma, Advocate
for the complainant-respondent No.2.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
196	27.07.2021	Sector 39, Chandigarh	409, 420, 467, 468, 471, 120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above, had come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. Vide order dated 25.08.2021, a Co-ordinate Bench of this court had passed the order that no coercive steps to be taken against the petitioner. The said order is continuing till date.
- 2.(a) On 25.04.2022, this Court had directed the petitioner to surrender all fire arms and also to declare assets.
3. 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. He further states that order dated 25.04.2022 has been complied with. There is no allegation that in the interregnum, the petitioner misused the liberty of the bail. It would be unfair to recall the interim order/stay of arrest after a gap of more than one and half year.

4. The State’s counsel opposes the bail.

REASONING:

5. Thus, there would be no justification to keep this bail pending waiting for the proper investigation. Considering the nature of the allegations and the offence involved coupled with the fact that the petitioner voluntarily complied with additional conditions imposed by this Court. On 25.04.2022, the interim order is made absolute. Petitioner to join the investigation if pending as and when called upon to do so and cooperate with the Investigator.

6. 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 do 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.**

7 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 dated 25.08.2021 is made absolute subject to strict compliance of all terms and conditions. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

11.04.2023
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Whether speaking/reasoned:	Yes
Whether reportable:	No.