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

CRM-M-34753-2023
Decided on: 16.10.2023

Amit Bansal ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vikram Chaudhri, Sr. Advocate with
Mr. Sunil Sihag, Advocate and
Mr. Kunal Sharma, Advocate
for the petitioner.

Mr. Manish Bansal, Sr. DAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
12	29.06.2022	Vigilance Bureau, Hisar	120-B, 406, 418, 467, 468, 471 IPC and Sections 13(1)(c) & 13(1)(D) of Prevention of Corruption Act 1988

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, has come up before this Court under Section 439 of Code of Criminal Procedure, 1973 (CrPC) seeking bail.

2. In paragraph 9 of the reply filed by the State, petitioner has the following criminal history:

Sr. No.	FIR No.	Date	Offences	Police Station
1	645	24.10.2020	420, 419, 406, 465, 468 & 471 IPC	City Sirsa
2	527	27.07.2016	420, 419, 406, 465, 468 & 471 IPC	City Sirsa
3	528	27.07.2016	420, 419, 406, 465, 468 & 471 IPC	City Sirsa
4	348	24.01.2020	406, 419, 420, 465, 467, 468, 471 IPC	Civil Line Sirsa
5	642	24.01.2020	420, 419, 406, 465, 468, 471 IPC	City Sirsa
6	552	30.07.2016	420, 419, 406, 465, 468, 471 IPC	City Sirsa
7	553	30.07.2016	420, 419, 406, 465, 468, 471 IPC	City Sirsa

8	554	30.07.2016	420, 419, 406, 465, 468, 471 IPC	City Sirsa
9	643	24.01.2020	420, 419, 406, 465, 468, 471 IPC	City Sirsa
10	644	24.01.2020	420, 419, 406, 465, 468, 471 IPC	City Sirsa
11	646	24.01.2020	420, 419, 406, 465, 468, 471 IPC	City Sirsa
12	650	24.01.2020	420, 419, 406, 465, 468, 471 IPC	City Sirsa
13	647	24.01.2020	420, 419, 406, 465, 468, 471 IPC	City Sirsa

3. While arguing today, petitioner's counsel prays for bail by imposing any stringent conditions including declaration of assets by the petitioner and family members, and are also voluntarily agreeable to the condition that till the conclusion of the trial, the petitioner shall keep only one mobile number, which is mentioned in AADHAR card, if any, and within fifteen days undertakes to disconnect all other mobile numbers. The petitioner contends that the further pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. The state's counsel opposes the bail and states that considering the allegations, the petitioner's custodial interrogation is necessary.

5. The relevant facts of the case are being taken from the reply filed by the State, which read as follows:-

> "The complainant alleged in his complaint that in Sirsa District, for last some years, illegal activities are going on by making bogus firms and by issuing bogus bills and thereby getting illegal refund from the treasury bogus bills and thereby getting illegal refund from the treasury on basis of said fictitious firms in connivance with officials/officers of Excise and Taxation Department, Sirsa and thereby gave refunds of Rs.21.54 crore to about 27 bogus firms.
>
> During the course of enquiry of said allegations it was found that the office of Deputy Excise and Taxation Commissioner, Sirsa had registered 31 firms of Khal, Binola, Beedi and Cigratte etc. during the year 2010 to 2015. Out of these 31 bogus firms 26 bogus firms have been found not taking refund from the office of DETC, Sirsa and 5 bogus firms."

6. The criminal history in other cases is not being considered because in the present case, this court is considering granting of bail on the prolonged pre-trial incarceration. As per custody certificate dated 13-09-2023, the petitioner's pretrial custody in this case was 9 months & 16 days. Based on this calculation, as of date, the petitioner's total custody in this FIR would be more than 10 and a half month. Subject to the strict and timely compliance of the condition that the petitioner and his spouse will declare their

assets, with in the stipulated time, as per the format being given by this court, coupled with the penal provisions invoked viz-a-viz pre-trial custody, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage in the FIR mentioned above, subject to the compliance of terms and conditions mentioned in this order.

7. In Sanjay Chandra v. Central Bureau of Investigation, (2012) 1 SCC 40, Supreme Court holds,

> [28] We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardize the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to ally the apprehension expressed by CBI.

8. 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. InSushila Aggarwal v. State (NCT of Delhi),**2020:INSC:106 [Para 92]**, (2020) 5 SCC 1, Para 92, the Constitutional Bench held that unusually, subject to the evidence produced, the Courts can impose restrictive conditions.

9. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bailin the above captioned FIR, 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.

10. In Madhu Tanwar. v. State of Punjab, **2023:PHHC:077618 [Para 10, 21]**, CRM-M-27097-2023, decided on 29-05-2023, this court observed,

> [10] The exponential growth in technology and artificial intelligence has transformed identification techniques remarkably. Voice, gait, and facial recognition are incredibly sophisticated and pervasive. Impersonation, as we know it traditionally, has virtually become impossible. Thus, the remedy lies that whenever a judge or an officer believes that the accused might be a flight risk or has a history of fleeing from justice, then in such cases, appropriate conditions can be inserted that all the expenditure that shall be incurred to trace them, shall be recovered from such person, and the State shall

> have a lien over their assets to make good the loss.
>
> [21] In this era when the knowledge revolution has just begun, to keep pace with exponential and unimaginable changes the technology has brought to human lives, it is only fitting that the dependence of the accused on surety is minimized by giving alternative options. Furthermore, there should be no insistence to provide permanent addresses when people either do not have permanent abodes or intend to re-locate.

11. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail 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 court, and in case of non-availability, to any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned officer/court must satisfy that if the accused fails to appear in court, then such surety can produce the accused before the court.

OR

(b). Petitioner to hand over to the concerned court 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 favor of the 'Chief Judicial Magistrate' of the concerned district, or blocking the aforesaid amount in favour of the concerned 'Chief Judicial Magistrate'. Said fixed deposit or blocking funds can be from any of the banks where the stake of the State is more than 50% or from any of the well-established and stable private sector banks. In case the bankers are not willing to make a Fixed Deposit in such eventuality it shall be permissible for the petitioner to prepare an account payee demand draft favouring concerned Chief Judicial Magistrate for a similar amount.

(c). Such court shall have a lien over the funds 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.

(d). 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 of this bail order.

(e). While furnishing personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number, (If available), when the court attesting the bonds thinks appropriate or considers the accused as a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. 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.

13. Petitioner to comply with their undertaking made in the bail petition, made before this court through his counsel. If the petitioner does not comply with any of such undertakings, then on this ground alone, the bail shall be canceled, and the State shall file the said application.

14. <u>The petitioner is directed not to keep more than one prepaid SIM, i.e., one pre-paid mobile phone number, till the conclusion of the trial; however, this restriction is only on prepaid SIMs [mobile numbers] and not on post-paid connections or landline numbers</u>. <u>The petitioner must comply with this condition within fifteen days of release from prison.</u> The concerned DySP shall also direct all the telecom service providers to deactivate all prepaid SIM cards and prepaid mobile numbers issued to the petitioner, except the one that is mentioned as the primary number/ default number linked with the AADHAAR card and further that till the no objection from the concerned SHO, the mobile service providers shall not issue second pre-paid SIM/ mobile number in the petitioner’s name. Since, as on date, in India, there are only four prominent mobile service providers, namely BSNL, Airtel, Vodafone-Idea, and Reliance Jio, any other telecom service provider are directed to comply with the directions of the concerned Superintendent of Police/Commissioner of Police, issued in this regard and disable all prepaid mobile phone numbers issued in the name of the petitioner, except the main

number/default number linked with AADHAR, by taking such information from the petitioner's AADHAR details or any other source, for which they shall be legally entitled by this order. This condition shall continue till the completion of the trial or closure of the case, whichever is earlier. In Vernon v. The State of Maharashtra, **2023 INSC 655**, [para 45], while granting bail under Unlawful Activities (Prevention) Act, 2002, Supreme Court had directed imposition of the similar condition, which reads as follows, "(d) Both the appellants shall use only one Mobile Phone each, during the time they remain on bail and shall inform the Investigating Officer of the NIA, their respective mobile numbers."

15. Within fifteen days from the date of this order, the petitioner's wife shall handover to the Investigator or send by Speed Post to the concerned Police Station, one notarized affidavit, mentioning the complete following details, held either individually or jointly, and cash-in-hand. Within fifteen daysof the release from the prison, the petitioner shall handover to the Investigatorone notarized affidavit, mentioning the complete following details, held either individually or jointly, and cash-in-hand. ***If the petitioner(s) fail to comply with this condition, then on this ground alone the bail might be canceled, and the State shall file the said application***. Such disclosure of assets will not only send a stern message to the petitioner not to repeat the offence but also put all this ill-gotten money kept with others at the peril of never being returned, for the reason that the money handler would also know of the declaration on affidavit wherein there would be neither any reference nor a trace of the funds in the laundering process.The petitioner(s) and their spouses(s) to declare their all assets of India and abroad, in the following formats in Rupees (INR):

Total value of all net worth as on 31 Mar 2023	
Current total value of all net worth	
Cash in hand as on date (Indian Rupee)	
Cash in hand as on date (All other currencies)	
Details of all bank accounts	
Current amount in cash, savings, checking, deposit accounts and crypto currency	
Total Value of equity shares & mutual funds as on 31 Mar 2023	
Current total Value of equity shares & mutual funds	
Total Value of recurring deposit, fixed deposits, bonds, pension plans, & annuity insurance policies as on 31 Mar 2023	

Current total Value of recurring deposit, fixed deposits, bonds, pension plans, & annuity insurance policies	
Current total market value of all jewellery, sovereign metals, artefacts, antiques etc.	
Current total market value of property including buildings, land etc. its area and location	
Total income in FY 2022-23 including farms, agriculture, horticulture, wages, salaries, commissions, interests, royalties, rent, income, or gifts received from other family members	
Details of all bank lockers and other lockers	
Enter the details of vehicles owned or in possession	
Any other asset or income	
Total liabilities as on 31 March 2023 (Including loans)	
Current total liabilities (Including loans)	
Approximate expenditure during FY 2022-23	
Any other expenses	

16. 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.

17. The conditions mentioned above imposed by this Court are to endeavour that the accused tries to reform, 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, **2022:INSC:735 [Para 28]**, 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."

18. 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.

19. If the petitioner finds the 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.

20. 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.

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

22. *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 allowed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

16.10.2023
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Whether speaking/reasoned: Yes
Whether reportable: **No**.