

104

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38422-2023

Decided on: 07.08.2023

Anil Mukhiya

...Petitioner

Versus

State of UT Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rishu Bajaj, Advocate for the petitioner.

Mr. Sumit Jain, Addl. PP, UT Chandigarh.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
213	19.12.2022	Sector 39, Chandigarh	21 of NDPS Act

1. The petitioner under arrest as per the FIR captioned above, had come up before this Court under Section 439 read with 482 CrPC, seeking interim regular bail on the ground of ill health of his wife.
2. Counsel for the petitioner submits that the petitioner was earlier granted interim bail till 31.07.2023 on the ground of pregnancy of his wife. Now petitioner’s wife has delivered baby but her health is not good as she is suffering with swelling in episiotomy side and low hemoglobin. Counsel further submits that as per the directions of this Court in the order dated 26.05.2023, the petitioner had surrendered on 01.08.2023 and now he seeks some more time to attend his wife. Counsel for the petitioner contends that the denial of interim bail would cause an irreversible injustice to the petitioner and family. Petitioner's counsel prays for bail by imposing any stringent conditions and is also voluntarily agreeable to the condition that till the conclusion of the trial before the trial court, the petitioner shall keep only one mobile number, which is mentioned in AADHAR card, and within seven days of release from prison undertakes to disconnect all other mobile numbers.
3. After carefully analysing the matter, this court is of the considered opinion that the petitioner is entitled to the interim bail till 31.08.2023, subject to the condition that the petitioner shall not press the main petition at this stage and after surrendering on 31.08.2023, it shall be open for him to file a fresh bail petition under section 439 CrPC

4. 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 limited period interim bail, 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.

5. Given above, provided the accused is not required in any other case, the petitioner shall be released on interim bail in the FIR mentioned above, subject to furnishing a personal bond of Rs. Twenty-five thousand (INR 25,000/-) to the satisfaction of the concerned Court/ Judicial Magistrate having the jurisdiction over the Police Station conducting the investigation, and in case of non-availability, any nearest Ilqa Magistrate/duty Magistrate. Before accepting the sureties, the concerned Court must satisfy that if the accused fails to appear in Court, then such surety is capable of producing the petitioner before the Court.

6. On the reverse page of personal bonds, the attesting officer shall mention the permanent address of the petitioner along with the phone number linked with the AADHAR card, the other phone numbers (if any), 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.

7. 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.

8. The petitioner is directed not to keep more than one prepaid SIM, i.e., one prepaid 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. The petitioner must comply with this condition within seven days of release from prison. 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."

9. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, ammunition, if any, along with the arms license to the concerned authority within ten days from release from prison and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in the concerned rules.

10. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall not enter the property, workplace, and the residence of the victim and shall also not enter within a radius of one-hundred meters from the victim's home during the period of this interim bail. This Court is imposing this condition to rule out any attempt by the accused to incapacitate, influence, or cause any discomfort to the victim. Reference be made to *Vikram Singh v Central Bureau of Investigation*, 2018 All SCR (Crl.) 458; and *Aparna Bhatt v. State of Madhya Pradesh*, 2021 SCC Online SC 230.

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. 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.

13. **The petitioner shall surrender in prison from where he was released, on or before 31.08.2023, by 2 p.m.**

14. *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 with liberty to file a fresh after surrender. The disposal of the present petition shall not stand in the way of filing and considering the fresh petition. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

07.08.2023
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Whether speaking/reasoned:	Yes
Whether reportable:	No.