

101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36835-2019
Date of decision: 13.02.2023

Gurmukh Singh and others ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr.Sant Pal Singh Sidhu, Advocate
for the petitioner(s)

Mr. Sanish Girdhar, AAG, Punjab
Mr. Baltej Singh Sidhu, Sr. Advocate with
Mr.Chandan Singh, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
39	26.05.2017	Mallanwala, District Ferozepur	306 IPC (420, 465, 467, 468 , 471, 120B IPC added later on)

1. The petitioners apprehending arrest in the FIR captioned above had come up before this Court under Section 438 CrPC seeking anticipatory bail.

2. Vide order dated 03.09.2019, the petitioners were granted interim protection by the Co-ordinate Bench of this Court, which is continuing till date subject to the joining of investigation by the petitioners.

3. The petitioners' counsel argued that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioners and their families.

4. The State's counsel opposes the bail.

5. Counsel for the complainant has strenuously opposed the present petition on the ground that in enquiry, the involvement of the petitioners were found and they caused harassment to the deceased which led to his suicide. They are consequently responsible for his death. He further submits that given the nature of the allegations, they are not entitled to grant of bail.

SONIA ARORA 6. At this stage, counsel for the petitioners submits that the bail may not be
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cancelled and has no objection in case this Court imposes stringent conditions.

REASONING:

7. On the submission of counsel for the petitioners, there would be no justification to discontinue the interim protection, and the same is made absolute subject to the petitioners complying with the terms of the bail order and the following additional conditions.

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

9. Within fifteen days from today, the petitioners shall forward to the Investigator/SHO and the complainant/victim(s) 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 petitioners fail to comply with this condition, then on this ground alone, the bail might be canceled, and the State may file such application for the cancellation of bail***

10. 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 petitioners 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 petitioners to reform and live a normal life but did not mend his ways.***

11. 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 03.09.2019 is hereby made absolute subject to strict compliance of all terms and conditions. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

13.02.2023
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Whether speaking/reasoned: Yes
Whether reportable: No.