

CRM-M-45170-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45170-2023
Reserved on: 19.09.2023
Pronounced on: 26.09.2023

Shivam @ Shivam Nandal ...Petitioner

Versus

Union of India through Intelligence Officer, NCB, Chandigarh ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rahul Rana, Advocate
for the petitioner.

Mr. J.S. Lalli, Advocate
for the respondent-UOI.

ANOOP CHITKARA, J.

Crime Case No.	Dated	Police Station	Sections
NCB Crime No.54/2022	23.08.2022	NCB Chandigarh	8, 20, 29 & 60 of NDPS Act 1985

1. The petitioner incarcerated for violating the above-mentioned provisions as per the FIR captioned above, has come up before this Court under Section 439 CrPC seeking interim bail to attend his ailing wife as she has been advised to undergo DSE (Dobutamine Stress Echocardiogram) and to undergo CAG (Coronary Angiogram) Surgery.
2. In para 3 of the petition, petitioner has mentioned the reasons for interim bail, which reads as follows:-

“That as health condition of the wife of the petitioner is deteriorating and she is desirous of getting herself treated as per advise in the above mentioned medical record i.e. Annexure P-1. That the wife of the petitioner is just waiting for the arrival of the petitioner before undergoing for a CAG surgery as he is the only person to sign the authorities and to support her mentally as well as physically in such a harsh and tough situation. That therefore the petitioner is most

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respectfully craving for the indulgence of this Hon'ble High Court for granting him concession of grant of interim bail for a period of 3 months for the reason is as above mentioned."

3. Petitioner's counsel prays for bail by imposing any stringent conditions. The petitioner contends that denial of interim bail would cause an irreversible injustice to the petitioner and family. Counsel for the petitioner submits that wife of the petitioner has to undergo surgery and is waiting for petitioner as he is the only person to sign the authorities.

4. While opposing the interim bail, the State does not dispute the factum of the grounds on which the petitioner is seeking interim bail .

REASONING:

5. I have perused the report received from the hospital, which reads as under:-

"Patient was admitted to the hospital for above mentioned complaint, she was evaluated and all necessary investigations were done. 2D echo showed normal cardiac chamber with LVEF 60%, no MS/MR/AS/AR, good RV function, no clot or pleural effusion or vegetation seen. Urea 49, creatinine 1.6, sodium 139, potassium 3.6 high sensitive trop1-1.9. ECG showed LVH, inverted t waves in V2-V6. Reference was given to Dr. Vipul Roy (Cardiologist) and she was advised for CAG. Patient and family was counseled in detail regarding the need of CAG but patient and family are not keen for CAG. All risk involved has been explained to the family and patient. Now patient has been advised to do DSE and review in OPD with report."

6. 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 bail for a limited period, 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.

7. In Madhu Tanwar and Anr. 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

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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.

8. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on interim 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 the 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

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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 of an Indian citizen, (If available), when the attesting officer/court deems appropriate or considers the accused as a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

9 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.

10. 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 fifteen 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.

11. In return for the limited protection from incarceration, the Court believes that the accused shall also reciprocate through desirable behavior. **It is clarified that in case the petitioner does 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 cautioned the petitioner to reform and live a normal life but did not mend his ways.**

12. 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.
13. 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.
14. **The petitioner shall surrender in prison from where he was released, on or before 19.10.2023, by 2 p.m.**
15. *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

26.09.2023
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Whether speaking/reasoned: Yes
Whether reportable: No.