

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-51612-2023 (O&M)

Reserved on: 20.11.2023

Pronounced on: 24.11.2023

Baljeet Singh Brar

... Petitioner(s)

Versus

State of Punjab

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Sherry K. Singla, Advocate
for the petitioner(s).

Mr. Ravinder Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
17	25.8.2023	Vigilance Bureau Range, Bathinda, District Bathinda	7 of Prevention of Corruption Act, 1988, as amended by P.C. (Amendment) Act, 2018.

1. The petitioner incarcerated in the FIR captioned above has come up before this Court under Section 439 CrPC seeking bail.
2. In paragraph 9 of the bail petition, the accused declares that he has no criminal antecedents.
3. 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 fifteen days of release from prison 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 opposes bail.
5. Case of the prosecution is being extracted from the reply filed by way of affidavit of DySP, Vigilance Bureau Unit, Bathinda, which reads as under:-

“(I) That the brief and the relevant facts of the case are that aforesaid FIR was registered on the basis of the statement of complainant Mr. Ravinder Singh son of Prem Singh resident of Ward No. 06,

Guru Nanak Nagar, Maur Mandi, District Bathinda, who had alleged that his son Harmandeep Singh is studying in class 12th at Pal The Academy District Hoshiapur. His son played a match of football on 07.06.2023 at Mandikalan. Where team of said son of the complainant won the match. The opposite team has caused quarrel with the team of son of the complainant and they have given beating to the players of said Harmandeep Singh's team. Son of the complainant was not present on the spot at the time of said fight. However, regarding the occurrence the D.D.R no 28 dated 04.07.2023 was registered above said both the parties at Police Station Balianwali. The police made efforts to apprehend the son of the complainant. Then, Complainant gave an application regarding innocence of his son to Senior Superintendent of Police, District Bathinda which was marked to Petitioner. He also declared that on dated 07.06.2023, when the fight had taken place, at that time, son of the complainant was with the complainant. As such, the complainant had shown CCTV Footage to the petitioner on several times but the petitioner did not take any action regarding innocence of son of the complainant and told the complainant that one more application regarding this incident, has been given by the family members of Arjun Kumar @ Ghanta. The petitioner raise a demand of illegal graft of Rs 1,00,000/- to declare complainant's son and Arjun Kumar as innocent. The complainant has submitted before the petitioner that the parents of Arjun Kumar are very poor and they are unable to pay that illegal graft. Then petitioner demanded a sum of Rs. 50,000/- from complainant as illegal graft for the declaring his son innocent. However, he remained adamant of illegal gratification of Rs. 50,000/- from the complainant despite of his request. The petitioner told the complainant to get the money whatever he had arranged today on dated 25.08.2023. The complainant also alleged that he had made a false promise with the petitioner to pay him Rs. 50,000/- as bribe so that he can be apprehended red handed by the Vigilance Department. The Complainant arranged the sum of Rs.30,000/- and presented the same in cash for using the same during the trap for the red handed arrest the petitioner. The complainant also declared that the recording of above said conversation was available in his mobile which he produced before the Vigilance Bureau later. The detailed facts mentioned in the aforesaid statement have been reproduced in the true translation of the FIR No. 17 dated 25.08.2023 attached with the petition as Annexure P-1, which may kindly be read as a part of the present paragraph please as same are not repeated for the sake of brevity.

- (II) As such, the Vigilance team laid a trap along with government witness where Vigilance Team caught the petitioner red handed and an amount of Rs.30,000/- was recovered from the side room of the petitioner. Before proceeding to conduct the raid, the investigating officer demonstrated and explained the entire

procedural formalities for conducting raid, arrest and recovery of the bribe amount from the accused persons during the trap to the complainant and the aforesaid shadow witnesses.

3. That on 04.09.2023, the statement of the complainant Ravinder Singh was recorded by the Judicial Magistrate 1st Class, Bathinda under section 164 Cr.P.C., whereby, he reiterated the same facts as stated by her in her statement 25.08.2023 before the investigating officer.
4. That during the search of Petitioner 'office, a sum of Rs, 1,03,500/- was recovered from laptop bag of Petitioner's reader Head Constable Manpreet Singh, which role will be investigated in the case.
5. That as per the record and information available at the Police station Vigilance Bureau, Range Bathinda, the petitioner is not found involved/nominated as an accused in any other criminal case, declared a proclaimed offender in the present case.
6. That, the Hon'ble Court of Additional Session Judge Bathinda ordered for voice sampling of petitioner on dated 25-09-2023 and same is yet to be taken at Forensic Science laboratory, S.A.S Nagar."

6. As per paragraph 4 of the bail petition, the petitioner is in custody since 25.8.2023. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the *prima facie* analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage, 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 allay 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 elaborate and stringent conditions. In Sushila 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 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.

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 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 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 petitioners 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 counsel as reflected at the beginning of this order. If the

petitioner fails to comply with any of such undertakings, then on this ground alone, the bail might be canceled, and the victim/complainant may file any such application for the cancellation of bail, and the State shall file the said application.

14. 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. The petitioner must comply with this condition within fifteen 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."

15. 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.

16. 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 a sense of security

to the victim. 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.”

17. 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.

18. 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.

19. 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.

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

21. *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

November 24, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No