

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-57323-2023 (O&M)

Reserved on: 29.11.2023

Pronounced on: 06.12.2023

Udham Singh alias Bunty alias Dabloo

... Petitioner(s)

Versus

State of Haryana

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. R.K. Agnihotri, Advocate
for the petitioner(s).

Mr. Rajat Gautam, Addl.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
590	2.11.2020	Sadar Thanesar, District Kurukshetra	420, 204, 186, 201, 120-B IPC and 7, 7A, 8, 13(1)(B) of the Prevention of Corruption Act, 1988.

1. The petitioner incarcerated in the FIR captioned above has come up before this Court under Section 439 CrPC seeking bail.
2. In paragraph 17 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. The facts of the case are taken from status report dated 28.11.2023 which read as

under:-

1. That in brief the facts of the present case are that on 02.11.2020, Inspector Naresh Kumar, Station House Officer, Police Station Sadar Thanesar along with ESI Narinder Singh, EHC Shish Pal on a Government Vehicle bearing registration No. HR07AC-3676, which was being driven by Constable Parveen Kumar was going from Thanesar towards Karnal side for investigation of case FIR No.467 of 2020 under Section 302 IPC. A telephonic call received from SI Dinesh Kumar, Chief Minister, Flying Squad, he along with officials reached at Umri Chowk where they produced Jaspreet @ Jas son of Sukhwinder Singh and Amarjeet son of Jarnail Singh, one Car Make a motorcycle, two mobile phone along with complaint to Inspector Naresh Kumar to the effect that he along with Inspector, along with staff on a private bearing registration No. HR02AD-0722 on detection duty at Kurukshetra and in the meantime secret information was received the effect that the owners of the vehicles pass their overloaded vehicles by getting information about the officers i.e. RTA, SDM and Sales Tax etc, on the road by giving money and the said programmers are being run admin in each District through Whatsap groups. Secret informer also informed that one Amarjeet is running this network in Kurukshetra, District Kurukshetra and he also has a boy who gives information about the officer to Amarjeet.

He also told that a boy, namely Jaspreet is keeping eye on RTA, Kurukshetra on his motorcycle bearing registration No.HR07Y-1949 make Splendor. On this information, complainant gave information to superior officials and formed a raiding party and asked the raiding party to remain standing in the Secretariat. Further alleged that as soon as the vehicle of RTA started from the office, one person followed the said vehicle on his motorcycle and raiding party also followed the vehicle of RTA, when they reached near Umri Chowk Kurukshetra, motorcyclist stopped near car bearing registration No.HR49D-9649 and talking to driver of the said car. Further alleged that raiding party tried to apprehend the motorcyclist but he tried to run away from there but the motorcyclist and car were apprehended and on enquiry motorcyclist told his name Jaspreet Singh and also told that he works for Amarjeet Singh and get salary of Rs. 10,000/- per month.

Further alleged that the enquiry was also made from person sitting in the car who told his name as Amarjeet Singh and also told that he is doing this business since long and supplied the information on Whatsapp groups to the transporters and received amount of

Rs.1000/2000 per month.

Further alleged that Amarjeet also disclosed that he is having setting with staff of some officers and he also arranged for release of vehicles, if captured during checking. He also disclosed that he gave money to officials Manjeet and Peon Parveen of SDM, Ladwa. It is also submitted that two more boys, namely Dablu (present petitioner) resident of Indri and Mohit resident of Kheri Markanda are also working for him. On checking of mobile phone of Amarjeet, many groups were found working whereby information regarding checking of different districts was being given.

2. That on the basis of above said allegations the present FIR no.590 dated 02.11.2020 under Section 420, 204, 186, 201, 120-B IPC and Sections 7, 7A, 8, 13(1) (B) of Prevention of Corruption Act, Police Station Sadar Thanesar, District Kurukshetra was registered and intimation regarding registration of present case was also sent to the higher authorities.
3. Thereafter, investigation of the present case was conducted by Sh. Ravinder Singh Tomar, HPS, DSP Kurukshetra and during investigation of the present case on 02.11.2020 Amarjit Singh and Jaspreet Singh were arrested in the present case and matter was investigated and one complaint separate was sent to Executive Officer Market Committee Ladwa because accused Parveen Kumar who is posted as peon and misused his post and Section 7A of Corruption Act was added in the present case in the beginning of investigation of the present case against accused Parveen Kumar.

During investigation of the present case the accused Parveen Kumar was arrested on 03.11.2020 and during investigation of the present case the accused Parveen Kumar has disclosed that data from his mobile phone was deleted by co-accused, namely Manjeet Singh and Section 204, 201 IPC were added in the present case. After that letter was written for obtaining the bank details of account no.6485908028 to Bank Manager of Indian Bank.

4. Thereafter, during investigation of the present case petitioner/ accused was arrested in this case and he has got recovered the mobile phone along with SIM Card no.96535-21384 and same was taken into police possession. During investigation of the present case on 04.11.2020 petitioner/ accused has made his disclosure statement that he was doing the job of reiki for one Sonu son of Nathi Ram resident of Village Gardpur Khalsa, Indri, District Karnal and for this he was being paid

Rs.10,000/- per month. That he was doing reiki of vehicle no.4765, Bolero Make of District Office (RTA). The present petitioner/ accused has committed crime of serious nature but inspite of that he has filed the present petition before this Hon'ble Court on false grounds and same is liable to be dismissed.

5. That the co-accused, namely Amarjeet Singh who suffered a disclosure statement before the investigating agency that from past long time, he has engaged young persons on monthly salary for reiki of checking staff of RTA office and this information was being sent and shared with different transporters through whats app ground and in lieu of this work, he received Rs.1000/2000 per truck from their owner in his account No.6485908028 with Indian Bank and from some persons, he received this amount in cash. In addition to sharing of this information, he has setting with some officials and as and when any vehicle is taken into custody by the officials, he by giving the bribe to the concerned officials would get the said vehicle freed, without any challan and few time ago, he has got released some vehicle from SDM Ladwa by giving money to staff persons, namely Manjeet and Parveen peon.

Such types of groups are run in every District of the State and these groups are being run by different Admin. He is also Admin and member of several other groups. Besides Jaspreet, Dabloo alias Udham Singh (present petitioner/ accused) and Mohit are also working for him, hence present petitioner/ accused along with other co-accused of this case has committed crime of serious nature and cause loss to the government, hence petition of the petitioner/ accused is liable to be dismissed.

6. That the total accused in the present case are 08 and out of them 06 accused persons including present petitioner/ accused were arrested. After completion of investigation the challan against the accused persons, namely Amarjeet Singh, Jaspreet Singh alias Jas, Parveen Kumar and Udham Singh alias Dabloo alias Banti submitted on 31.12.2020 and against co-accused, namely Manjeet Singh on 26.04.2021 under Section 420, 204, 186, 201, 120-B IPC and Sections 7, 7A, 8, 13(1) (B) of Prevention of Corruption Act and the learned Trial Court has framed charge against the present petitioner/ accused and co-accused on 09.02.2022. Now the matter is pending before the learned Trial Court and same is fixed on 05.01.2024 for prosecution evidence. The total witnesses in the present case are 30 and out of them 03 witnesses were

examined before the learned Trial Court.

7. That the present petitioner/ accused has been facing trial for the commission of offences under Sections 420, 204, 186, 201, 120-B IPC and Sections 7, 7A, 8, 13(1) (B) of PC Act. The allegations against the present petitioner/ accused are very serious. In case the present petitioner/ accused is released on bail, he may tamper with the prosecution evidence and may threat the prosecution witnesses not to depose against him, hence petition of the present petitioner/ accused may be dismissed as the arrest of remaining two accused, namely Mohit resident of Village Kheri Markanda, District Kurukshetra and Sonu son of Nathi Ram is still pending in the present case.
8. That during investigation the petitioner/ accused has got recovered the motor cycle bearing No.HR75-3842, Driving License and an amount of Rs.1000/-. The present petitioner/ accused has committed crime of serious nature, hence he is not entitled for any relief as he has claimed in the present case. However, as per local police record no other case is found registered against the present petitioner/ accused except the present case.
8. That the earlier bail application moved by the present petitioner/ accused was dismissed vide order dated 19.10.2023 passed by this Hon'ble Court but inspite of that he has filed the present petition before this Hon'ble Court on false grounds and same is liable to be dismissed.
9. That the petitioner/ accused has committed crime of serious nature and doing reiki of loaded truck and gave information to their owners regarding raid of RTA Kurukshetra and for that work he has obtained Rs.10,000/- as salary and secret informer disclosed the name of present petitioner/ accused and he is the by name accused of the present case. The copy of custody certificate of the present petitioner/ accused is enclosed herewith as Annexure R-1 for kind perusal of this Hon'ble Court.

6. As per paragraph 8 of the bail petition, the petitioner remained in custody from 3.11.2020 to 16.9.2021 and further, he is in custody since 6.9.2023. 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 Illaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned 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 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 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

December 06, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes