

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-6961 of 2024
Date of Decision: February 09, 2024

Sushil Kumar

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARPREET SINGH BRAR

Present:- Mr. Nikhil Mittal, Advocate
for the petitioner

Ms. Geeta Sharma, DAG Haryana

Harpreet Singh Brar, J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. for issuance of directions to the learned trial Court/Duty Magistrate that petitioner may be permitted to furnish a single surety bond in the 9 FIR cases (Annexure P-3 i.e. details of the FIRs) in which the petitioner has now been granted bail vide orders of different dates passed by the Court of Additional Sessions Judge, Kurukshetra.
2. Learned counsel inter alia contends that the petitioner belongs to poor strata of life and is a daily wage earner and submission of surety in each case separately would be an onerous condition and the same would negate the order granting bail to the petitioner and it would violate the fundamental right of the petitioner guaranteed under Article 21 of the Constitution of India. Counsel for the petitioner has relied upon the judgment dated 29.10.2018 passed in Special Leave to Appeal (Crl.) No.8914- 8915 of 2018 titled as “*Hani Nishan @*

Mohammad Imran @ Vikky vs The State of Uttar Pradesh”, wherein in similar circumstances, the Hon'ble Supreme Court has held as under:-

“Heard learned counsel for the parties. The petitioner is said to have been involved in 31 criminal cases for various offences.

The Trial Court granted bail in all the 31 cases by different orders inter alia on condition of arranging two sureties each in all the cases.

The petitioner moved the High Court under Section 482 of the Criminal Procedure Code, contending that it was impossible for the petitioner to arrange 62 sureties.

It is the case of the petitioner that the High Court had in similar circumstances granted bail to the petitioner with two sureties of Rs. 1,00,000/- (Rupees One lakh only) in the case under Gangster Act and the same sureties were to be the sureties in all other cases as well, by an order dated 21.9.2017. The petitioner was directed to execute personal bond of Rs. 30,000/- in each case.

However, by the impugned order, the High Court has modified the conditions of bail imposed by the Trial Court in the instant cases by directing the Trial Court to accept one common surety for all the cases and one surety each for the 31 cases.

Learned counsel for the petitioner submits that even though the Court has granted bail to the petitioner, the petitioner is unable to execute the bail bonds because of the onerous conditions of bail imposed particularly the condition of producing 31 sureties.

Considering the submissions, the impugned order is modified to the extent that the petitioner shall execute a personal bond for Rs. 30,000/- (Rupees Thirty thousand only) and the same bond shall hold good for all 31 cases. There shall be two sureties who shall execute the bond for Rs. 30,000/- which bond shall hold good for all the 31 cases. It is clarified that the personal bond so executed by the Petitioner and the bond so executed by the two sureties shall hold good for all the 31 cases.

With these observations, the Special Leave Petitions are disposed of.

Pending applications, if any, shall stand disposed of.”

3. Learned counsel for the petitioner has, thus, submitted that the petitioner is ready to furnish one surety with bail bond of Rs.50,000 and prays that the same be treated as valid surety/bail bonds in all the cases.

4. Notice of motion.

5. Ms. Geeta Sharma, DAG, Haryana who is present in Court accepts notice for the official respondent-State.

6. Learned State counsel has submitted that though, the petitioner has been granted the concession of regular bail by the trial Court, however, he has not furnished the bail/surety bonds as a specific direction/condition is laid down by the trial Court that the petitioner will furnish his bail bonds in a sum of Rs.50,000/- with one surety in the like amount and despite similar orders passed in all the cases, the petitioner has not furnished the bail/surety bonds till date.

7. Having heard learned counsel for the parties and after perusal of the records, the case is taken up for final disposal with the consent of parties. The purpose of obtaining surety or personal bond is to secure the presence of the accused during the pendency of the trial and any unrealistic condition including the demand of separate surety in each case would negate the concept of free and fair trial and it would impact the liberty of the accused.

8. In view of the facts and circumstances of the case, I find merit in the present petition in view of the law laid down in ***Hani Nishad @ Mohammad Imran @ Vikky's case (supra)*** and accordingly, a direction is issued to the trial Court that it should accept the bail/surety bonds to the tune of Rs.50,000/- in one

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case, which will be treated as a surety in all the cases. Similarly, the petitioner will execute a personal bond for a sum of Rs. 50,000/-, which shall also be treated as a bond in all the remaining cases.

9. The present petition is disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

February 09, 2024
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No