

CRM-M-11531-2024  
Decided on: 14.03.2024

Bhagwan Dass ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ishan Gupta, Advocate  
for the petitioner.

Mr. Kanav Bansal, DAG, Punjab.

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ANOOP CHITKARA, J.

| FIR No. | Dated      | Police Station                                                             | Sections                                                                        |
|---------|------------|----------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| 18      | 27.12.2023 | Vigilance Bureau,<br>Economic Offences<br>Branch/Wing,<br>Ludhiana, Punjab | 420, 465, 466, 467, 468, 471,<br>120-B IPC and Sections 7 & 8 of<br>PC Act 1988 |

1. The petitioner incarcerated in the FIR captioned above, has come up before this Court under Section 439 r/w 482CrPC seeking bail.

2. Petitioner has handed over some documents, in which it has been mentioned that in the petition, inadvertently it has been mentioned that petitioner has no criminal history, however, one more case is pending against the petitioner, details of which are as under:-

| Sr. No. | FIR No. | Date       | Offences         | Police Station               |
|---------|---------|------------|------------------|------------------------------|
| 1       | 31      | 02.11.2022 | 7 of PC Act 1988 | Vigilance Bureau,<br>Patiala |

3. Petitioner's counsel submits that the petitioner was given charge of Patwari Balran-B on 29.06.2022 by SDM, Moonak. Before that he was not even posted in the area of Village Balran-B. The Petitioner was duty bound to enter the mutation on the basis of sale deed bearing Vasika No.53 dated 26.04.2022 which was received by him in his office. As a matter of record the said area existed in the name of Balwant Singh, he

was duty bound to enter the mutation in the name of Balraj Singh. As and when the Petitioner received complaint from Gurtej Singh, he immediately made Farad Badar with regard to mutation no.11123 in the revenue record. Therefore, the Petitioner has done his duty as per law and in accordance with law. The only allegation against the Petitioner is that while recording, Farad Badar the mutation no. 11123 was not mentioned in it. It would not be out of place to mention that once the mutation no. 10808 has been rendered wrong against the record and ineffective by way of Farad Badar, all subsequent mutations would automatically become ineffective. Thus, allegation against the Petitioner is wholly misplaced. It is also stated that no person has levelled any allegation against the Petitioner that he ever demanded any bribe or accepted any bribe from any person and the Petitioner has not made any forged and fabricated entry in the revenue record. He further 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's counsel opposes the bail and states that considering the allegations, the petitioner is not entitled to any bail. The State's counsel further contends that given the criminal past, the accused is likely to indulge in crime once released on bail.

5. In *Maulana Mohd Amir Rashadi v. State of U.P.*, (2012) 3 SCC 382, Hon'ble Supreme Court holds,

[10] It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most of the cases ended in acquittal for want of proper witnesses or pending trial. As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.

6. While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or

prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

7. Prosecution's case is being taken from reply dated 13.03.2024, which reads as follows:-

*"4) The the above said case FIR No. 18/2023 (Annexure P-1) was registered against the petitioner and other accused persons as per the Enquiry conducted in respect of complaint no. 109/2023- Sangrur, moved by Gurtej Singh etc.*

*"5) That during the course of enquiry, it was transpired that Gurtej Singh, Labh Singh and Darshan Singh were owners of the land measuring 149 Kanal 18 Marla situated at Village Balran B comprised in Khata No. 279/460 - 466 Salam Khewat No. 31 as per Jamabandi for the year 2013- 14. On 06.08.2018 Dharam Raj Patwari (Co- accused)entered mutationno. 10808 with regard to the transfer of land measuring 25 Kanal 15 Marla out of Khewat No. 279 in favour of Balwant Singh S/o Dalip Singh. However, Dharam Raj Patwari did not make any report in this regard in the Roznamcha whereas he was required to make the report in the Roznamcha and was also required to get signatures of the parties, who got effected the transfer of land. The mutation was also required to be signed by both the parties, but it bears signatures of Balwant Singh only whereas the signatures of Gurtej Singh and his brothers are not there on the mutation.*

*6) That during enquiry it also transpired that Gurtej Singh did not transfer any land in favour of Balwant Singh or his family members nor said Balwant Singh has entered into any agreement with Gurtej Singh with regard to the transfer of land nor Balwant Singh has any land at Village Raisar Jakhal(Haryana). Infact, Balwant Singh is in possession of land measuring 22 Kanal 08 Marla situated at Village Balran since the year 1966, but he does not have any document qua his owner ship over the said land. Balwant Singh approached Dharam Raj Patwari in order to get transferred the ownership of the land in his name and in lieu of doing his work, Dharam Raj Patwari demanded a sum of Rs. 10 Lac as bribe from him, but the matter was settled for an amount of Rs. 7 Lac. On this, Balwant Singh withdrew Rs. 7 Lac from his bank account and handed over the same to DharamRaj Patwari.*

*7. That during enquiry it also transpired that with regard to the transfer of land of complainant Gurtej Singh, Dharam Raj Patwari (co-accused) entered forged mutation no. 10808 on the basis of fake and fabricated exchange deed dated 14.05.2008 in the revenue record of Village Balran-B, and the said forged mutation was compared by the Patwari Mithu Singh co-accused having additional charge of said post as per order dated 16.11.2018 without calling the concerned parties in respect of said mutation no. 10808 and without inspecting and examining their documents including the alleged exchange deed dated 14.05.2008 which was also relied upon by his co-accused Dharam Raj Patwari. Patwari Mithu Singh Co-accused on the other hand compared the said mutation in pursuance of criminal connivance of his co-accused Dharam Raj Patwari and got sanctioned the said mutation from co-accused Sandhura Singh Tehsildar on 15.05.2019. It is pertinent to mention here that for the said illegal work, Balwant Singh had paid bribe money of Rs. 7 Lac to Dharam Raj Patwari co-accused of the petitioner and the said bribe money was paid by Balwant Singh after getting the same withdrawn from his account of Co-operative Bank Moonak.*

*8. That during enquiry it was transpired that after sanctioning mutation, its*

copy (ParatSarkar) alongwith requisite documents were to be submitted with the Sadar Kanungo Munak, but said documents were not submitted with the Sadar Kanungo Munak. In this regard, during investigation of present FIR, statement of Surinderpal Singh additional Naib Sadar Kanongo, office Deputy Commissioner Sangrur has been recorded and he has also produced the copy of Parat Sarkar in which there is no reference/entry with regard to Mutation No. 10808, rather on the other hand, entry with regard to said mutation was fraudulently made in Parat Patwar by Dharam Raj Patwari on the basis of exchange deed dated 14.05.2008 and said mutation was compared by the Mithu Singh being Kanongo and sanctioned by Sandhura Singh Tehsildar. It is pertinent to mention here that no exchange deed dated 14.05.2008 was ever executed between Gurtej Singh etc. and Balwant Singh.

9. That the Patwari Mithu singh Co-accused of Village Balran- B, made tampering/editing in respect of khewat no. 309 in Jamabandi for theyear 2018-19 on computer on 30.04.2021 and reduced the share of Gurtej Singh etc. from 75/201 to 318/1499 and due to the said tampering/editing land measuring 25 Kanal 15 Marla of Labh Singh, Gurtej Singh etc. was shown to be transferred in the name of Balwant Singh and by doing said editing/tampering Balwant Singh became owner of land measuring 25 Kanal 15 Marlas.

10. That above said land measuring 25 Kanal 15 Marlas was further transferred by Balwant Singh in favour of his grand son Balraj Singh by executing and registering sale deed Vide Vasika No. 53 dated 26.04.2022 and mutation No. 11123 was also sanctioned in the name of Balraj Singh. It is pertinent to mention here that said mutation no. 11123 was entered by the **Present Petitioner** being Patwari of Village Balran-B.

11 That it is submitted that when Gurtej Singh actual owner came to know about the illegal transfer of his land measuring 25 kanal 15 Marla in the name of Balwant Singh in the revenue record and sanctioning of mutation no 10808 in favour of Balwant singh and further transfer of his land by Balwant Singh in favour his grand son Balraj Singh on the basis of sale deed bearing Vasika No. 53 dated 26.04.2022 and sanctioning of mutation No. 11123 in the name of Balraj Singh, and then he made a complaint with the Revenue Department, on which, **Bhagwan Das Patwari i.e. the present Petitioner** made entry vide Farad Badar No.16 dated 18.07. 2022 in Jama Bandi register, that Share of actual owner Gurtej Singh etc.was wrongly transferred/entered in the name of Balwant Singh, and he being patwari recommended to rectify the said mistake made in the revenue record. The said recommendation of Bhagwan Das Patwari was approved by the Tehsildar. It is necessary to mention here that at the time of making Farad Badar with regard to the wrong entry regarding transfer of Land of Gurtej singh etc. in the name of Balwant Singh, **Patwari Bhagwan Das i.e. the present Petitioner** was well aware about the fact of the subsequent transfer of said very land belonging to Gurtej Singh etc. by Balwant Singh in favour of his grand son Balraj Singh and sanctioning of mutation no. 11123, because he **i.e. Present Petitioner** himself had entered the said mutation in the record and got sanctioned the same from Tehsildar. But the Present Petitioner delebrately did not make any reference with regard to the subsequent transfer of land by Balwant Singh in favour of Balraj Singh and sanctioning of mutation no. 11123, at the time of making Farad Badar dated 18.07.2022. Therefore, the mutation no. 11123 could not be reviewed. In this way, Dharam Raj Patwari, **Petitioner Bhagwan Dass Patwari**, SandhuraSingh Tehsildar, Mithu Singh Patwari and Balwant Singh, in connivance with one another defrauded Gurtej Singh etc. and caused wrongful loss to them by getting wrongful gain to themselves.”

8. As per paragraph 18 of the bail petition, the petitioner is in custody since 27.12.2023. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, petitioner has already been retired in the year 2019 and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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 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)                                                                                                           |  |

14. 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.

15. 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.

16. 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."

17. 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.

18. 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."

19. 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.

20. 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.

21. 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.
22. In return for the protection from incarceration, the Court believes that the accused shall also reciprocate through desirable behavior.
23. *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

14.03.2024  
anju rani

Whether speaking/reasoned: Yes  
Whether reportable: No.