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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16292-2024
Decided on: 22.04.2024

Jagseer Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Karanjeet Singh Brar, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
10	28.03.2023	SSOC, Fazilka, District Fazilka	15, 18, 21, 22, 27, 27-A & 29 of NDPS Act, 7 & 13 of PC Act and Section 52-A of Prison Act

1. The petitioner under arrest for violating the provisions as mentioned above, as per the FIR captioned above, has come up before this Court under Section 439 CrPC seeking bail on the ground that the quantity of contraband is less than commercial and rigours of S. 37 of NDPS Act do not apply.
2. As per custody certificate dated 21.04.2024, no other FIR is pending against the petitioner.
3. Petitioner's counsel prays for bail by imposing any stringent conditions and states that they would have no objection to the conditions, i.e., surrender of weapons, declaration of assets by the petitioner and their spouse, and are also voluntarily agreeable to the condition that till the conclusion of the trial, the petitioner shall keep only one mobile number, which is mentioned in AADHAR card, if any, and within fifteen days 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 the bail.

REASONING:

5. Facts of the case are being taken from the reply dated 20.04.2024, which reads as under:-

"1. That in compliance to the order dated 09.04.2024, it is most respectfully submitted that FIR No. 10 dated 28.03.2023 U/s :- 15, 18, 21, 22, 27-A, 29 of NDPS Act and later on added Section 7/13-A of P.C Act and Section 52-A of Prison Act and Section 27 NDPS Act was registered in Police Station SSOC, Fazilka at the instance of SI Davinder Kumar, No. 5097/INT on the averments that as per secret information received by the complainant, it was informed to him that accused Raj Kumar alongwith Sonu Tiddi and Amrik Singh, who were lodged in Central Jail, Ferozepur in different cases registered under NDPS Act, had formed a gang and were running a Drug racket from inside the Jail premises. It was further informed that Neeru Bala wife of Raj Kumar and Geetanjali wife of Sonu Tiddi were also accomplice in the said Drug racket. The amount generated from illegal sale of these Narcotics were paid via UPI payment system that later linked to accounts of Neeru Bala and Geetanjali. It was further informed that if Raj Kumar, Sonu Tiddi and Amrik Singh were joined in investigation and interrogated, a huge drug racket running in the Jail premises could be busted. It was further informed that the involvement of the Jail officials in this racket could also be unearthed. Finding the information to be trustworthy, the present FIR was registered under section 15, 18, 21 22, 27(A), 29 of NDPS Act. That during custodial interrogation, accused Raj Kumar suffered disclosure statement, whereby he stated that the younger brother of his wife, Neeru Bala i.e Gaurav was lodged in Central Jail Firozpur in some other case from year 2017 till August 2023. He further stated that there he came in contact with Gurvinder @ Cylinder and Amrik Singh son of Ghasita Singh as they were also lodged in Central Jail Firozpur in some other case. He further disclosed that he himself was lodged in Central Jail Firozpur in year 2021 and during that time he along with Gurvinder and Amrik Singh had been dealing with smuggling of drugs inside the jail premises. He further disclosed that after some time Gaurav and Gurvinder @ cylinder were released on bail. They were having good relations with the drug smuggler. During the time they remained in custody at jail premises, Firozpur, they used to deal with the drugs and used to receive payment on Google pay through mobile phone of Neeru Bala wife of Raj Kumar on mobile phone no. 9041439630. Consequently Amrik Singh, resident of Amritsar, Gurwinder @ Cylinder and Gaurav were nominated in this case vide DDR no. 20 dated 7.11.2023. After nomination of above said accused in this FIR, Amrik Singh was arrested on 09.11.2023. During interrogation, he disclosed that he remained in custody at Central Jail Firozpur from July 2018, till October 2021. He further stated that Inderjit Singh @ Indri and Sucha were already lodged in Central Jail Firozpur. There he came in their contact. They used to supply heroin in the jail premises in connivance with the jail officials. He further disclosed that the heroine used to be supplied in various barracks. The mobile phone was got arranged by Sucha from Gaurav Dhingra, who was running a mobile shop at Firozpur. The payment of the heroine smuggled inside the jail premises used to be got

deposited in the account of Gaurav Dhingra through above said mobile phone. It was further disclosed that in year 2019 in month of October, Assistant Jail Superintendent Kashmir Singh conducted checking of Jail barracks and a mobile phone make Samsung was recovered from him. However, Kashmir Singh Assistant Jail Superintendent agreed not to register an FIR against him on the promise that he will pay an amount of 4000/-. Consequently, the said amount was got paid by him through his brother, Lakhwinder Singh. The said amount was paid at a tea shop, situated opposite to the Central Jail Ferozpur.

Again, in year 2020 checking of Jail premises was conducted by Rajinder Kumar @ Shaktiman and a mobile phone make Samsung was recovered from Amrik Singh in Barrack no.4 of the Jail. He also agreed not to register a FIR against him on the promise that he will pay him 5000/-. The said amount was paid through brother of Rahul to Sohan Singh and Sohan Singh further paid the said amount at the tea stall situated opposite to the jail premises. Similarly Assistant Jail Superintendent Nirpal Singh also recovered a mobile phone and he agreed not to register an FIR against him by taking an amount of Rs.6000/- from Rahul which were also paid on the same tea stall. On the basis of above said disclosure statement, Assistant Jail Superintendent Kashmir Chand, Rajinder Kumar and Nirpal Singh, along with Sucha, Gaurav Dhingra and Inderjit Singh @ Indri were nominated in this case and offence under section 7/13 of PC Act were enhanced vide DDR no. 26 dated 25.12.2023.

2. That during further investigation in this case, Raj Kumar alias Raja son of Faqir Chand again Joined the investigation and disclosed/admitted that during the period when he was lodged in Central Jail Ferozepur, he came in contact with Gaurav son of Channa and Gurwinder Singh alias Cylinder, Amrik Singh son of Surjit Singh alias Ghasita Singh r/o Gali no. 2, Near Vishavkarma Mandir, Kot Khalsa District Shri Muktsar Sahib, who had good relations with the jail officials namely Hawaldar Nachattar Singh, Warder Naib Singh, petitioner Assistant Jail Superintendent Gurtej Singh. They helped the prisoners in doing these illegal activities in the jail premises by taking ill-gotten money from them for the sale of these narcotic substances. Thus, on the basis of the statement of Raj Kumar, Hawaldar Nachattar Singh, Warder Naib Singh, and Assistant Jail Superintendent Gurtej Singh were nominated as an accused vide DDR no. 22 dated 28.12.2023.

3. That Inderjit Singh alias Indri son of Buta Singh r/o Ward no. 11, Mallanwala, District Ferozepur was lodged in Central Jail Ferozepur from dated 26.05.2020 to 12.07.2022 in case FIR no. 15 dated 27.04.2023 PS: SSOC Fazilka under NDPS Act case and got on production warrants on 27.12.2023. However, in the interrogation of accused Inderjit Singh alias Indri son of Buta Singh r/o Ward no.11, Mallanwala, District Ferozepur, he has disclosed that when he was confined in Central Jail Ferozepur, he came in contact with Sonu Tiddi son of Mahesh Singh, Amrik Singh son of Surjit Singh, Gaurav alias Gora, Sucha son of Bahadar, who were indulging in selling narcotics in the Jail premises. Inderjit Singh further disclosed that Assistant Superintendent Kashmir Chand, Jail Warder Gurmeet Singh Sodhi and Dr. Sashi Bhushan who was posted in the Ferozepur Jail also helped them in doing such illegal activities and handed over the narcotics when they used to reach on duty from outside, for supplying the same in the Jail premises. Inderjit Singh further disclosed that he handed over the said narcotics to Raj Kumar alias Raja son of Faqir Chand. Who used to

further sell the same to the prisoners. Inderjit Singh further disclosed that in order to get these illegal facilities in the jail premises, they used to pay Rs. 5000/- per month per person to aforesaid Sucha through Google Pay/Paytm/cash etc and Sucha further used to distribute the ill-gotten amount to the Jail officials i.e. Assistant Superintendent Kashmir Chand, Assistant Superintendent Gurtej Singh, Head Warder Balkar Singh, Head Warder Surjit Singh alias Sarpanch. Thus, on the basis of the said disclosure statements, Dr. Shashi Bhushan, Head Warder Surjit Singh alias Sarpanch, Head Warder Balkar Singh and Jail Warder Gurmeet Singh Sodhi have been nominated as an accused vide DDR no. 23 dated 28.12.2023.

4. It is further submitted that on dated 05.01.2024 vide DDR No. 25, petitioner Jagsir Singh son of Mukhtiar Singh R/o Shatir Wala Distt. Fazilka was nomintaed in the above said case FIR after receving the Technical Input/ Report, which reveals that the SIM no. 75081-91363 was registered in the name of Lakhwinder Kaur Wife of Mukhtiar Singh R/o Shatir Wala Distt. Fazilka (who is mother of above said petitioner Jagsir Singh). Later, on dated 06.01.2024, above said petitioner Jagsir Singh has been arrested, who confessed that the above said SIM was brought inside jail by him through human cavity when his mother came to meet him in the jail.

5. It is further submitted that on dated 10.02.2024, one of the accused Lakhwinder Singh son of Surjeet Singh son of Natha Singh R/o Kutli Mor, Near Dera Baba Bhuman Shah, Guruharsahai Distt. Ferozepur was arrested in above said case and later led to recovery of 50 Gram Heroin has been made. On dated 11.02.2024, Varinder Singh son of Raj Singh resident of Fatte Wala Hithar PS Mamdot district Ferozepur and Samar Singh @ Samri son of Surjeet Singh R/o Maste Ke PS Arif Ke Distt. Ferozepur were nominated in above said case vide DDR No. 30 dated 11.02.2024 on the statement of Nitish Manhas son of Anil Kumar resident of Sardulpur Kalota PS Mukerian Distrcit Hoshiyarpur (One of the receiver of Money from the bank account of Neeru Bala, who disclosed that he received that money on the directions of above said Varinder Singh and Samar Singh @ Samri. On dated 14.02.2024, accused Samar Singh @ Samri son of Surjeet Singh R/o Maste Ke PS Arif Ke Distt. Ferozepur has been arrested in the said case FIR and Rs. 50000/- Drug money was recovered from him. It is worth to submitted that on dated 22.02.2024, the intial challan U/s 173 CRPC was submitted in Ld. Trial Court U/s 15/18/21/22/27/27A/29/61/85 NDPS ACT, 7/13-A PC Act as Amended 2018 and 52A Prison Act against the petitioner Jagsir Singh son of Mukhtiar Singh R/o Shatir Wala Distt. Fazilka and other co-accuseds namely Gurtej Singh Assistant Superintendent son of Joginder Singh R/o Talwandi Bhangeria PS Mehna Distt. Moga, Balkar Singh Head Warden Jail (Retired) son of Late Baj Singh R/o Mallwal Qadim, PS Kulgarhi, Distt. Ferozepur, Surjeet Singh Jail Warden (Retired) son of Darshan Singh R/o Basti Bhane Wali Dakhli Maste Ke PS Arif Ke Distt. Ferozepur, Gourav Dhingra son of Vijay Dhindra R/o # 49/24, Street No. 01, Tahli Muhalla Ferozepur (Mobile Shop, Near Bagi Gate), Neeru Bala W/o Raj Kumar alias Raju R/o Machhi Mandi, PS City Ferozepur Distt. Ferozepur, Raj Kumar alias Raju son of Fakir Chand R/o Machhi Mandi, PS City Ferozepur Distt. Ferozepur, Sonu Tidi son of Mahesh Singh R/o Prem Nagar Block No. 626 Near Convent School, PS Cantt. Ferozepur, Amrik Singh son of Jarnail Singh R/o Palla Megha PS Sadar Ferozepur Distt. Ferozepur, Gourav @ Gora s/o Channa R/o Guruharshai Distt. Ferozepur, Gurwinder @ Silander

son of Surjeet Singh R/o Guruharshai Distt. Ferozepur, Amrik Singh son of Ghaseeta Singh R/o Street No. 02, Near Wishav Karma Mandir, Kot Khalsa, Distt. Amritsar Sahib (Currently living at Village Siddan PS Lopo ke Distt. Amritsar Sahib), Kashmir Chand Malohtra Assistant Superintendent Jail (Retired) son of Late Parkash Chand Malohtra R/o Vill. Hassan Dhat PS Sadar Ferozepur Currently living at Shanti Nagar, Near Ram Asharm Ferozepur, Nirpal Singh Assistant Superintendent Jail (Retired) son of Late Rajpal son of Late Gopal Das R/o Darshan Colony Near Vill. Ablowal, #52B, PS City Patiala, Distt. Patiala, Nachhatar Singh Chakkar Head Constable son of Surjeet Singh R/o Ratta Thehra Distt. Fazilka, Inderjit Singh @ Inder son of Boota Singh R/o Basti Bishan Singh Wali PS Mallanwala Distt. Ferozepur, Naib Singh @ Naib Singh son of Nar Singh R/o Killian Wali PS Khuian Sarver Teh. Abohar Distt. Fazilka, Currently Living at Street No. 1, Sidhu Nagari Abohar, Distt. Fazilka, Rajinder Sharma @ Shaktiman (Assistant Superintendent Jail) son of Harbans Lal R/o #537, Azad Nagar, Near Kalgidhar Gurudwara Sahib, City FZR, Distt. FZR, Rahul son of Lal Chand R/o Ali Ke, Baasi Gate, City Ferozepur, Lakhwinder Singh son of Surjeet Singh son of Natha Singh R/o Kuti Mor, Near Dera Baba Bhuman Shah, Guruharsahai Distt. Ferozepur, Samar Singh @ Samri son of Surjeet Singh R/o Maste Ke PS Arif Ke Distt. Ferozepur and Gurmeet Singh Sodhi Jail Warden S/o Tarlok Singh R/o House No. 44, Bharat Nagar, Street Sodiya Wali, Khai Road City Ferozepur.

6. That petitioner Jagseer Singh was arrested in this case on 06.01.2024 and thereafter he produced before the learned trial court and his police remand was obtained.

7. It is respectfully submitted that as per the direction by this Hon'ble High Court on dated 09-04-2024 The role of petitioner, The evidence against the petitioner and petitioner's custody certificate in this FIR. are explained under above said headings in sub paras.

A. The role of petitioner:-

That so far as role of petitioner is concerned that petitioner Jagsir Singh son of Mukhtiar Singh R/o Shatir Wala Distt. Fazilka has brought the SIM no. 75081- 91363 inside the Central Jail, Ferozepur through human cavity when his mother came to meet him in the jail. Later the above said SIM was used by him and his co-accuseds to run the huge drug racket inside the jail.

B. The evidence against the petitioner :-

That so far the evidence against the petitioner is that the Mobile No. 75081- 91363 was registered on the name of Lakhwinder Kaur Wife of Mukhtiar Singh R/o Shatir Wala Distt. Fazilka (who is mother of above said petitioner Jagsir Singh). During the technical analysis of the petitioner Jagsir Singh's Mobile No. 75081-91363, it was revealed that this number was continuously active in Central Jail, Ferozepur from the period 01.11.2021 to 14.02.2023 and the total number of calls were made from this number is 35,338 (Both Incoming and Outgoing Calls). During investigation it came to light that a total of 4242 callers made a total of 35,338 calls during the given time. The certified copy of CAF and certificate of U / s 65-B Evidence Act of above said mobile number has been received from the concerned authority i.e. attached as Annexure R-1.

The Summarized form of call detail record with the help of technical analysis a chart was drawn to understand about the relation between callers and calls i.e. attached as Annexure R-2."

6. Given this, the rigours of S. 37 of the NDPS Act do not apply in the present case.
7. Section 2 (vii-a) of the NDPS Act defines commercial quantity as the quantity greater than the quantity specified in the schedule. Section 2 (xxiii-a) defines small quantity as a quantity less than the quantity specified in the table of the NDPS Act. The remaining quantity falls in an undefined category, generally called an intermediate quantity. All Sections in the NDPS Act, which specify an offence, also mention the minimum and maximum sentence, depending upon the quantity of the substance. The commercial quantity mandates a minimum sentence of ten years of imprisonment and a minimum fine of Rupees One hundred thousand, and bail is subject to the riders mandated in S. 37 of NDPS Act. When the quantity is less than commercial, the restrictions of Section 37 of the NDPS Act will not attract, and the factors for bail become similar to the offence regular statutes.
8. In Sami Ullaha v Superintendent Narcotic Control Bureau, (2008) 16 SCC 471, the Hon'ble Supreme Court holds that in intermediate quantity, the rigors of the provisions of Section 37 may not be justified.
9. As per para 9 of the petition, petitioner is in custody since 06.01.2024. As per custody certificate dated 21.04.2024, petitioner's custody is 03 months & 14 days. The petitioner is a first offender, and one of the relevant factors would be to provide an opportunity to course correct. Even a prima facie perusal of paragraph 8 of the bail petition needs consideration for bail.
10. In Gurbaksh Singh Sibbia v State of Punjab, 1980 (2) SCC 565, (Para 30), a Constitutional Bench of Supreme Court held that the bail decision must enter the cumulative effect of the variety of circumstances justifying the grant or refusal of bail. In Kalyan Chandra Sarkar v Rajesh Ranjan @ Pappu Yadav, 2005 (2) SCC 42, (Para 18) a three-member Bench of Supreme Court held that the persons accused of non-bailable offences are entitled to bail if the Court concerned concludes that the prosecution has failed to establish a prima facie case against him, or despite the existence of a prima facie case, the Court records reasons for its satisfaction for the need to release such person on bail, in the given fact situations. The rejection of bail does not preclude filing a subsequent application. The courts can release on bail, provided the circumstances then prevailing require, and a change in the fact situation. In State of Rajasthan v Balchand, AIR 1977 SC 2447, (Para 2 & 3), Supreme Court noticeably illustrated that the basic rule

might perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the Court. It is true that the gravity of the offence involved is likely to induce the petitioner to avoid the course of justice and must weigh when considering the question of jail. So also, the heinousness of the crime. In *GudikantiNarasimhulu v Public Prosecutor*, (1978) 1 SCC 240, (Para 16), Supreme Court held that the delicate light of the law favors release unless countered by the negative criteria necessitating that course. In *Prahlad Singh Bhati v NCT, Delhi*, (2001) 4 SCC 280, Supreme Court highlighted one of the factors for bail to be the public or the State's immense interest and similar other considerations. In *Dataram Singh v State of Uttar Pradesh*, **2018:INSC:107 [Para 7]**, (2018) 3 SCC 22, (Para 6), Supreme Court held that the grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously, compassionately, and in a humane manner. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.

11. 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 elaborative 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.

12. 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.

13. 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 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.

14. 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 attesting officer/court thinks appropriate or considers the accused as a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

15. 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.

16. 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.

17. 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."

18. Given the background of allegations against the petitioner, it becomes paramount to protect the drug detection squad, their family members, as well as the members of society, and incapacitating the accused would be one of the primary options until the filing of the closure report or discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearm(s). [This restriction is being imposed based on the preponderance of evidence of probability and not of evidence of certainty, i.e., beyond reasonable doubt; and as such, it is not to be construed as an intermediate sanction]. 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. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offence.

19. 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.

20. The conditions mentioned above imposed by this court are to endeavour that the accused does not repeat the offence and to ensure the safety of the society. In

(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."

21. 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.

22. If the petitioner finds bond amount beyond social and financial reach, it may be brought to the notice of this Court for appropriate reduction. Further, 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.

23. This order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation as per law.

24. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offence in this FIR, and if the new section prescribes maximum sentence which is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above, then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days providing an opportunity to avail the remedies available in law.

25. 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.

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

27. *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

22.04.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.