

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-22224-2024 (O&M)

Reserved on: 15.07.2024

Date of Pronouncement: 22.07.2024

Sumit @ Honey

... Petitioner(s)

Versus

State of Haryana & another

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Sanjiv Kumar, Advocate  
for the petitioner(s).

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

Mr. Ravi Kamal Gupta, Advocate  
for respondent no.2.

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ANOOP CHITKARA, J.

| FIR No.             | Dated     | Police Station         | Sections                                                                                                                                |
|---------------------|-----------|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| C00CHG<br>2016S0014 | 6.10.2016 | CBI/SCB,<br>Chandigarh | 120-B, 148, 149, 186, 188, 307, 353, 395, 427, 436, 452 IPC, 25 Arms Act and 3 & 4 of Prevention of Damage to Public Property Act, 1984 |

1. The petitioner, who is a previous convict under Section 302 IPC and was a member of an unlawful assembly that had caused massive damage to the property, incarcerated upon his arrest in the FIR captioned above, has come up before this Court under Section 439 of Code of Criminal Procedure, 1973 (CrPC) seeking bail.
2. In paragraph 12 of the bail application, the accused declares the following criminal antecedents:

| Sr. No. | FIR No. | Date       | Offences                                         | Police Station              |
|---------|---------|------------|--------------------------------------------------|-----------------------------|
| 1.      | 72      | 11.3.2020  | 25/54/59 Arms Act                                | Sadar Jhajjar, Haryana      |
| 2.      | 44      | 5.3.2020   | 323, 307, 506, 34, 380 IPC and 25/54/59 Arms Act | Julana Jind, Haryana        |
| 3.      | 322     | 15.8.2020  | 20, 61, 85 NDPS Act and 42 IPC                   | Civil Line, Jind, Haryana   |
| 4.      | 441     | 24.8.2004  | 379 IPC                                          | Civil Line, Rohtak, Haryana |
| 5       | 66      | 3.3.2020   | 8/9 HGCP Act, 1988                               | Sadar Rohtak.               |
| 6.      | 704     | 26.11.2015 | 323, 34, 506, 325 IPC                            | Sadar Rohtak,               |



and to conclude its hearing. To meet the deadline, an endeavour be made to speed up the process for service and to pass the necessary directions in this regard. It is clarified that if expediting this trial disturbs the docket of the concerned court, then a balance be struck, and if, on this account, any delay happens, then an extension can be sought by mentioning such reasons. It is clarified that this order speeding up the trial is subject to the condition that neither the petitioner shall seek any adjournment nor try to use any tactics to delay the trial. If they do so, this order of expediting the trial shall stand automatically recalled by resorting to Section 362, read with Section 482 Code of Criminal Procedure, 1973, without any further reference to this court. If any of the accused is on bail and fails to attend the trial without any sufficient cause, then they be dealt with strictly but in accordance with the law. It is clarified that if the trial is not concluded by the date mentioned above, and if the delay is not attributable to the petitioner, then the petitioner may file an application for bail before the trial court, which shall decide it expeditiously and consider the bail on the grounds of pre-trial custody, and all the previous orders of dismissal passed by the trial court or High Court shall not come in the way.”

5. A perusal of the above extract shows that this Court had asked the trial Court to complete the trial within six months and in case the trial is not concluded within six months, the petitioner was permitted to file a bail application on the ground of pre-trial incarceration.

6. Admittedly, the trial has not been completed so far and as per the custody certificate, the petitioner is in custody for 6 years, 2 months and 5 days in the present case. It has been stated that there are 148 witnesses and it will take a long time to examine them all and thus, the petitioner cannot be kept in custody indefinitely.

7. While opposing bail, the State contends that given the criminal past, the accused is likely to indulge in crime once released on bail.

8. 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.

9. 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 *Gudikanti Narasimhulu 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.

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. This order shall come into force from the time it is uploaded on the official webpage of this Court.

12. 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.

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 Ilqa 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 investigator/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 a 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)                                                                                                        |  |

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 or in earlier orders. 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. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, and 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.

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. In return for protection from further incarceration at this stage, the Court believes that the accused shall also reciprocate through desirable behavior. **It is clarified that in case the petitioner does not mend his ways and repeats the offence or indulge in criminal behaviour, then in all future matters, the concerned courts shall keep it as a factor that this court had afforded a final opportunity to the petitioner to reform and live a normal life but did not mend his ways.**

19. 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 witnesses, victim, and their families. 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."

20. 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.

21. If the petitioner finds the 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.

22. 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.

23. 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.

24. 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.

25. *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 of.

(ANOOP CHITKARA)  
JUDGE

July 22, 2024  
AK

|                           |   |     |
|---------------------------|---|-----|
| Whether speaking/reasoned | : | Yes |
| Whether reportable        | : | No  |