



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22826-2024
DECIDED ON:07.05.2024

GURCHARAN SINGH ALIAS JONI ALIAS JOHNY
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Kulvir Singh, Advocate
for the petitioner

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under section 482 r/w sections 439(1)(b) and section 440 Cr.P.C for modification of conditions of bail imposed vide order dated 24.08.2021(Annexure P-1) and for waiving the condition of furnishing a surety bond in sum of Rs.40,000/- and for release of the petitioner on personal bonds during the pendency of the trial of FIR No. 19 dated 20.02.2021 registered under Sections 399, 402 of IPC at police station Amargarh, District Sangrur, Punjab.

2. The counsel for the petitioner submits that an FIR No. 19 was registered against the petitioner dated 20.02.2021 under sections 399,402 IPC at Police Station Amargarh, District Sangrur and since then, he is in the custody as an under-trial for a period of about 3 years and 2 months. He further submits that petitioner being an indigent person was unable to hire an advocate for applying bail therefore his bail application was filed by Legal Aid Organization wherein he was granted bail vide order dated 24.08.2021 while imposing a

condition to furnish personal bonds in the sum of Rs.40,000/- with one surety of like amount.

3. Counsel for the petitioner vehemently argues that the petitioner being pauper is unable to pay the surety bond while relying upon ***“Moti Ram vs State of M.P.”, 1978 AIR (SC) 1594***, wherein it has been held that

“30. Even so, poor men- Indians are, in monetary terms, indigents- young persons, infirm individuals, and women are weak categories and courts should be liberal in releasing them on their own recognizances -put whatever reasonable conditions you may.

31. It shocks one’s conscience to ask a mason like the petitioner to furnish sureties for Rs. 10,000. The magistrate must be given the benefit of the doubt for not fully appreciating that our Constitution , enacted by “We, the People of India, is meant for the butcher, the baker, and the candle stick maker-shall we add, the bonded labor and pavement dweller.

33. We mandate the magistrate to release the petitioner on his own bond in a sum of Rs.1,000/-.”

4. Notice of Motion.

5. On the asking of the Court, Mr. Rajiv Verma, DAG, Punjab accepts notice on behalf of the respondent-State.

6. Heard.

7. Taking into account the totality of the facts and the settled law on this issue, this court deems it appropriate that once bail has been granted, it would be against the ethos of Constitution of India and Criminal law

jurisprudence if the petitioner is unable to enjoy its benefits in true letter and spirit. Rather, it would be a travesty of justice if the petitioner is made to languish in jail merely for the reason that he could not furnish surety.

8. In the present case, the petitioner could not enjoy the fruits of bail only because he failed to furnish the surety. In my considered opinion keeping the accused in custody for his inability to furnish surety would be against the essence of the Constitution of India and the law.

9. In the light of above discussed facts, it is directed that the petitioner be released on bail on his furnishing only a personal bond in the sum of Rs.40,000/- to the satisfaction of the concerned trial court/Duty Magistrate.

10. Accordingly, petition stands disposed of.

(SANDEEP MOUDGIL)
JUDGE

07.05.2024
Poonam Negi

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>