



Sr. No.227

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-24401-2024
Date of decision: 21st May, 2024

LOVEPREET SINGH**Petitioner**

versus

STATE OF PUNJAB AND ANOTHER**Respondents**

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

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

Ms. Sakshi Bakshi, AAG, Punjab.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973, for grant of anticipatory bail to the petitioner in case FIR No.11 dated 02.02.2024, under Sections 406, 498-A, 120-B IPC, 1860, registered at Police Station Sirhali, District Tarn Taran (Annexure P-1).
2. On 15.05.2024, the following order was passed by the co-ordinate Bench of this Court:-

“xxx xxx xxx xxx

2. In paragraph 20 of the bail petition, the accused declares that he has no criminal antecedents.
3. Allegations against the petitioner, who is husband of complainant, are that he along with other co-accused had raised dowry demands from the complainant and physically assaulted her and caused mental torture and harassment.
4. Counsel for the petitioner submits that marriage of petitioner and complainant solemnized on 13.10.2021. Due to differences and desertion by complainant, the petitioner has filed a petition under Section 9 of HMA before the family Court, which is pending adjudication for 11.07.2024. He further prays for bail by imposing any stringent conditions. Petitioner’s counsel argued that the



custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family. He seeks interim bail in the meantime.

4-A. State's counsel opposes the bail. The contention of behalf of the State is that dowry and other articles apart from the money are yet to be recovered.

5. Given that, the petitioner has no criminal antecedents, apart from this, 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 the bail petition needs consideration for interim bail.

6. *In the present case, the maximum sentence imposable for the offences mentioned in FIR does not exceed seven years. Thus, directions passed in Arnesh Kumar v. State of Bihar, 2014:INSC:463 [Para 13], (2014) 8 SCC 273, (Para 13), apply to this petition, wherein Hon'ble Supreme Court directed all the State Governments to instruct its police officers not to arrest the accused automatically when the offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.*

7. 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 11], (2020) 5 SCC 1, Para 92, the Constitutional Bench held that unusually, subject to the evidence produced, the Courts can impose restrictive conditions. In *Sumit Mehta v. State of N.C.T. of Delhi*, (2013)15 SCC 570, Para 11, Supreme Court holds that while exercising power Under Section 438 of the Code, the Court is duty-bound to strike a balance between the individual's right to personal freedom and the right of investigation of the police. While exercising utmost restraint, the Court can impose conditions countenancing its object as permissible under the law to ensure an uninterrupted and unhampered investigation.

8. 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 interim 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.

9. 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.

10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on interim 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 Investigator/SHO, before whom the bonds are required to be furnished. When the bonds are to be furnished before a Judicial Magistrate, then in case of the non-availability of the concerned Judicial Magistrate, to any other nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned officer 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 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)	

11. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation on 20.05.2024 at 10:00 am in the concerned police station and as and when called by the Investigating Officer or any Superior Officer; and shall cooperate with the investigation at all further stages as might be required. In the event of failure to do so, it will be open for the prosecution to seek cancellation of the bail. Whenever the investigation occurs within the police premises, the petitioner shall not be called before 8 AM and shall be let off before 6 PM, and shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

12. 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.

13. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall handover the entire belongings and articles of the complainant and her family within fifteen days from today, failing which it shall be permissible for the complainant to file an application for the cancellation of bail and the bail might be canceled on this ground alone. However, if the complainant refuses to take those back, the petitioner shall inform the SHO of the police station



through a registered letter, mentioning the details of attempts and the details of this FIR. Complainant also will furnish inventory of articles to petitioner, so received.

14. All terms of this bail order shall be explained to the applicant in a language they can comprehend by the applicant's advocate and the officer in whose presence the applicant signs personal bonds.

15. 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.

16. 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.

17. 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.

18. 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.

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

20. The SHO of the concerned police station or the Investigating officer shall arrange to send a copy of this order, preferably a softcopy, to the complainant and the victim, without any delay. If the victim(s) notice any violation of this order, they may inform the SHO of the concerned police station, the trial court, or even this court.

21. 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.



List on 21.05.2024.

The concerned Deputy Superintendent of Police to file/hand over their reply/response/instructions/Status report, positively before the next date, failing which this court might direct the officer superior to them to do so. The reply/Response/Instructions/Status report shall also mention the following, under headings:

- A. The role of the petitioner.
- B. The evidence against the petitioner.
- C. In case of dismissal of this petition, would the police arrest the petitioner in this FIR, and do they need the accused's police custody?

xxx xxx xxx xxx”

3. Learned counsel for the petitioner contends that the petitioner has joined the investigation in compliance of the aforesaid order dated 15.05.2024, passed by the co-ordinate Bench of this Court.

4. Learned State counsel, on instructions from ASI Gurdeep Singh, confirms that the petitioner has joined investigation and also contends that his further custodial interrogation is not required.

5. In view of the reasons recorded in the order dated 15.05.2024 and keeping in view the fact that the petitioner has joined investigation and his further custodial interrogation is not required by the Investigating Agency, the present petition is allowed and the order dated 15.05.2024, granting interim bail to the petitioner is made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.

6. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

7. However, liberty is reserved in favour of the State/complainant to move for cancellation/recalling of the order in case the petitioner violates any



condition stipulated under Section 438 (2) Cr.P.C., or upon showing any other sufficient cause.

8. All the pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

21st May, 2024
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>