

239 CRM-A-434-2022

STATE OF HARYANA VS. MOHIT MAHAJAN AND ORS.

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

Mr. Pawan Kumar Hooda, Advocate
for respondent No. 1.

Mr. Yashveer Kharb, Advocate
for respondents No. 2, 4, and 9.

Mr. Arun Luthra, Advocate
for respondent No.3.

Ms. Kirandeep Kaur, Legal Aid Counsel
for respondent No. 4.

None for respondents No. 5 and 6.

Respondent No. 7 in jail vide order dated 28.02.2024.

Mr. Rakesh Sobti, Advocate and
Ms. Malika Sethi Sobti, Advocate
for respondent No. 8.

Ms. Shanika Khurmi, Legal Aid Counsel
for respondent No. 10.

Mr. Yashveer Kharb, Advocate has put in appearance on behalf of
respondent No. 4 and has filed his *Vakalatnama* in Court today which is taken on record.

In terms of order dated 21.03.2024, the concerned SHO has given a report
that respondents No.5 and 6 are not residing at the given addresses.

Counsel appearing for the applicant-State submits that the present
application was filed against acquittal in the year 2021 and they have a very good case
on merit.

On the contrary, counsel for remaining respondents submit that the
judgment of acquittal is well reasoned and leave to appeal should not be granted. They
further submits that in case, this Court grants leave to appeal and admit the main
appeal, its turn will not come for hearing for decades, as such pendency of the appeal
may be treated in-consequential for the respondents.

The accused to execute a bond for attendance within two months,
undertaking to appear in this court, in case the appeal is allowed.

In Mahidul Sheikh v. State of Haryana, CRM-33030-2021 in CRA-S-363-
2020, decided on 14-01-2022, Para 53, this Court observed,

[53]. The pragmatic approach is that while granting bail with sureties, the “Court” and the “Arresting Officer” should give a choice to the accused to either furnish surety bonds or to handover a fixed deposit, or direct electronic money transfer where such facility is available, or creating a lien over his bank account. The accused should also have a further option to switch between the modes. The option lies with the accused to choose between the sureties and deposits and not with the Court or the arresting officer.

Given above, within two months, the accused shall furnish a personal bond of Rs. Ten Thousand only (INR 10,000/-), and furnishing one surety for Rs. Twenty-Five thousand only (INR 25,000/-), to the satisfaction of the concerned Trial Court/Duty Magistrate. Before accepting the sureties, the concerned Court must satisfy that if the accused fails to appear in Court, then such surety is capable of producing the petitioner before the Court.

In the alternative, the accused may furnish a personal bond of Rs. Ten Thousand only (INR 10,000/-), and hand over to the attesting Magistrate, a fixed deposit(s) for Rs. Ten Thousand only (INR 10,000/-), made in favour of Chief Judicial Magistrate of the concerned district. Such Fixed deposits may be made from any of the banks where the stake of the State is more than 50%, or any of the well-established and stable private banks, with the clause of automatic renewal of principal, and the interest reverting to the linked account.

Such a fixed deposit need not necessarily be made from the account of the accused. If such a fixed deposit is made in physical form, i.e., on paper, then the original receipt shall be handed over to the concerned Court. If made online, then its printout, attested by any Advocate, and if possible, countersigned by the accused, shall be filed, and the depositor shall get the online liquidation disabled. The accused or his Advocate shall inform at the earliest to the concerned branch of the bank, that it has been tendered as surety. Such information be sent either by e-mail or by post/courier, about the fixed deposit, whether made on paper or in any other mode, along with its number as well as FIR number. After that, the accused shall hand over such proof along with endorsement to the concerned Court. It shall be total discretion of the accused to choose between surety bonds and fixed deposits. It shall also be open for the accused to apply for substitution of fixed deposit with surety bonds and vice-versa. Subject to the proceedings under S. 446 CrPC, if any, the entire amount of fixed deposit, less tax deducted at source, if any, shall be endorsed/returned to the depositor(s). Such Court

shall have a lien over the deposits up to the expiry of the period mentioned under S. 437-A CrPC, 1973, or until discharged by substitution as the case may be.

The attesting officer shall, on the reverse page of personal bonds, mention the permanent address of the accused along with the phone number(s), WhatsApp number (if any), e-mail (if any), and in case of any change, the Accused shall immediately and not later than 30 days from such modification, intimate about the change of residential address and change of phone numbers, WhatsApp number, e-mail accounts, to the Registry of this Court.

The furnishing of the personal bonds shall be deemed acceptance of the all stipulations, terms, and conditions of this bail order.

There would be no need for a certified copy of this order for furnishing bonds, and any Advocate for the accused 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.

Registry to communicate this order to the trial Court without any delay.

Main appeal

Notice served upon respondents-accused No. 1 to 4, 8 to 10 through counsel representing.

List on 29.05.2024.

Issued notices to respondents No. 5 to 7 for the date fixed. Appellant to take steps for service of respondents No. 5 to 7, if already not taken.

(ANOOP CHITKARA)
JUDGE

22.04.2024
Jyoti-II