

CRM-M-28726-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28726-2024
Reserved on: 10.07.2024
Pronounced on: 16.07.2024

Naresh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rohit Suri, Advocate
for the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
044	11.04.2024	City Kanina, District Mohindergarh, Haryana	109, 120-B, 279, 304, 336, 337 IPC and 185, 192 of Motor Vehicle Act 1954

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, came up before this Court under Section 439 of Code of Criminal Procedure, 1973 (CrPC) seeking bail.
2. In paragraph 25 of the bail petition, the accused declares that he has no criminal antecedents.
3. Petitioner's counsel submits that petitioner was not named in the FIR, but on disclosure statement of Dharmender, who was driver of the bus, petitioner was arrested. He further prays for bail by imposing any stringent conditions. The petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. The State opposes bail.

REASONING:

5. Prosecution’s case is being taken from status report dated 10.07.2024, which reads as under:-

"4. That the brief facts of the case are that on 11.04.2024, PSI Tapender was present at Police Station, City Kanina where he received an information from Control Room that a school bus has met with an accident near Unhani in which many children were injured and he reached at the spot. On receiving the information, PSI alongwith fellow employee ASI Satish No. 59/NNL, HC Sunil No. 312/NNL, L/ASI Snehlata No. 156/NUH, L/ASI Suresh No. 623/NNL, EHC Satyanarayan No.733/NNL, EHC Sukhbir No. 813/NNL reached at the spot. Ambulance was informed to arrive at the incident site. Some injured children were sent to the hospital from the incident site by the public and TARY some injured children were sent in an ambulance to the Government WANI VERMA AC Hospital, Kanina. The investigating officer took photos of the incident CHANDIGARH Reg. No. 17442 by Date 21-1site with his mobile phone. The accidental bus was shifted to the side T. OFOND nthe spot. Control Room, Narnaul and senior officials were informed for police assistance. After that, the investigating officer alongwith his fellow employee, reached at CHC, Kanina and obtained the MLRs of the injured children namely Anuj, Maan and Yashvi (Copy of MLRs of injured Anuj, Maan and Yashvi are enclosed herewith as Annexure R-1 to R-3) and Rukka Dead of Satyam son of Rakesh resident of Jhadli and Yuvraj son of Sanjay resident of Dhanaunda Jhadli were also received. The information was received from Government Hospital, Mahendergarh that Ricky @ Chiku son of Ravinder resident of Dhanaunda, Anshu son of Sandeep resident of Jhadli, Yakshu son of Sandeep r/o Jhadli and Vansh @ Golu son of Dushyant r/o Dhanaunda have also died there and thereafter the Ruqa Dead of the concerned were obtained from Govt. Hospital, Mahendergarh. The crowd caught Ganeshi Lal Public School bus driver Dharmender son of Vijay Kumar, a resident of Sehlang from the spot and handed him over to the police. The smell of alcohol was coming from his mouth. The medical examination/ alcohol test of driver Dharmender was got conducted at Government Hospital, Mahendergarh, in which Doctor has recorded that Alcohol Smell Present In Breath (Copy of medical report of driver Dharmender is enclosed herewith as Annexure R-4) and the blood sample was taken by the doctor which was handed over to the police was taken into police possession vide recovery memo. The blood sample of driver was sent to R/FSL, Sunaria, Rohtak for analysis vide RC no. RY 27449320240416416630/65 dated 16.04.2024 but the R/FSL report has VERMA VOCATE) not been received so far.

5. That during the course investigation, the investigating officer moved an before the concerned doctor regarding the fitness of girl Anuj, daughter of Vijay Kumar, resident of Kharkada Bass who undergoing treatment in Government Hospital, Kanina, on which Doctor recorded her fit to give statement. Thereafter, the investigating officer made the contact with injured Anuj who

presented an application to the effect that on 11.04.2024, she alongwith other students was going to school in school bus bearing No.HR-66A-7514 at about 08:30-09:00 AM. The bus driver was driving the bus at high speed, in rash and negligent manner despite request of the children not to drive the bus at high speed, in rash and negligent manner. The driver, who had consumed liquor, threatened the children and continued to drive the bus at high speed, in rash and negligent manner and as a result of which the bus overturned and hit the trees near EURO School on Unhani road. Some of the children died at the spot and many others were injured. She had come to know that some parents on getting to know that the driver/accused Dharmender was driving the bus after consuming liquor had snatched the key of the bus at village Kheri Talwana but the school administration asked them to return the key or to face consequences and under threat the parents returned the keys of the bus and Dharmnder continued to drive the bus. There was no helper or female employee in the bus. Instructions in Namit Kumar's case were also violated by the school administration. From the contents of above application as well as MRLs of the injured children and Rukka dead, the offence under TARY sections 109, 120-B, 279, 304, 336, 337 of IPC and Section 185 and 192 WANI VERMA MV Act were made out upon which the investigating officer sent a of , No. 17042 ywriting (tehrir) to police station through EHC Sukhbir No. 813/Narnaul for registration of the FIR and on the basis of said tehrir, the present case vide FIR no. 44 dated 11.04.2024 u/s 109, 120-B, 279, 304, 336, 337 of IPC and Section 185 and 192 of MV Act was registered at Police Station, City Kanina against driver Dharmender and others.

6. That after registration of the present case, the investigation of this case was conducted by P/SI Tapender. The investigating officer conducted the proceedings u/s 174 Cr.P.C pertaining to deceased children namely Yovraj, Vansh, Ricky, Yakshu, Satyam and Anshu and the post-mortem examination of said deceased children were got conducted at GH, Mahendergarh (Copy of post-mortem examination reports of deceased Yovraj, Vansh, Ricky, Yakshu, Satyam and Anshu are enclosed herewith as Annexure R-5 to R-10) and thereafter the dead body of deceased children were handed over to their parents/legal heirs. The driver of the bus i.e. accused Dharmender was arrested in this case on 11.04.2024. During interrogation, he suffered disclosure statement wherein he has admitted his involvement in the present crime and disclosed that Rajender Singh Lodha, Hoshiar Singh and Subhash, the owners of GL Public School, hired me as a driver who gave him a salary of Rs. 9 thousand per month. On 11.04.2024, he alongwith his three companions had consumed the liquor and thereafter he reached at village Khedi for bringing the children and when he overtook a bike and after going some distance, the bike driver stopped him

and took the keys of his bus. After that the boy had called his school and TARY complained about him that this person was driving the bus at speed. He also talked on the phone and then he said that he should quickly take the bus and reach the school and got demarcated the place of incidence in pursuance of his disclosure statement (True translated copy of disclosure statement of accused Dharmender (driver) has already been enclosed with the present petition as Annexure P-3). The investigating officer inspected the place of occurrence and after inspection he prepared the rough site plan of the place of incidence. On the same day co-accused Dipti who was principal of G.L Public, Kanina and Hoshiyar Singh who was the transport in-charge of school buses were arrested in this case. During interrogation, they suffered disclosure statements respectively wherein they have admitted their involvement in the present crime. Co-accused Hoshiyar Singh disclosed that they did this school in year 2003. His father Rajender Singh is the chairman of the school and his brother Subhash also takes care of the entire school and his brother Subhash's wife Dipti Yadav is the principal of the school. They knew that all the documents of this bus had expired. It's been 10 years since he took the bus. But they did not pay any attention to this. They kept driver Dharmender with them at a very low salary because they knew that he consumes alcohol and cannot do any other job and whenever he talked about increasing his salary, they used to give him a bottle of liquor as a conspiracy.

7. That during interrogation, co-accused Dipti Yadav (Principal) disclosed that this school was opened by her father-in-law Rajender Singh, In which her husband Subhash and her brother-in-law Hoshier also take care of the school. They did this school in year 2003 and her father-in-law Rajender Singh is the chairman of the school. She knew that all the documents of this bus had expired. It's been 10 years since she took the bus. But they did not pay any attention to this and at present they do not any documents of their school.

8. That during the course of investigation, on 11.04.2024 the accidental bus bearing registration no. HR-66A-7514 was taken into police possession vide recovery memo and was taken to Police Station, City Kanina. On the same day, the statement of witness namely Arun was got recorded u/s 164 Cr.P.C. by producing him before the Ld. Court of SDJM, Kanina. On 12.04.2024, accused Dharmender, Dipti and Hoshiyar Singh were produced in the Ld. Court and taken on five days police remand. Thereafter, section 75 of Juvenile Justice Act 2015 and section 75 of the Motor Vehicle Act were incorporated in the present case. During police remand, the relevant documents pertaining to accidental bus as well as the institution were recovered which were taken into police possession vide recovery memo. It is pertinent to mention here that the fitness and pollution certificate etc. of the bus was not found and

the vehicle was also found to be ten years old.

9. That during the police remand, on 13.04.2024, co-accused Dharmender i.e. driver of school's bus was again interrogated by the investigating officer deeply and he suffered re-disclosure statement wherein he has falsified his earlier disclosure statement and disclosed that on 11.04.2024, at 7 am, he left home with his school's bus. When he reached the bus stand of their village, he found their villager Bhudev son of Sher Singh, Sandeep son of Dayaram, Naresh alias Kalia son of Shriram (petitioner), Harish @ Nitu son of Lalchand residents of Sehlang met him. All of whom sat in his bus and asked him to go on liquor vend and he went with them on the liquor vend. From where he started turning the bus, Bhudev, Naresh @ Kalia (petitioner) and Sandeep brought 2 bottles of country made liquor from the liquor shop. They all sat in the bus and left from there. When they reached near the temple of their village, they stopped the bus on the side and they all sat in the bus and started drinking alcohol. All five of them emptied both the bottles there. They were out of wine. So, everyone said that they will bring more liquor. He told all of them that it was his school time. When school children came inside the bus, they all said that children do not smell alcohol and how will the children know that he has drunk alcohol. While encouraging him, he said that even if a child tells him that he is drunk, then threaten him, the child will get scared and sit quietly. Due to which his courage became more high and they went to village Khedi to get more liquor. When they reached near village Khedi, he overtook a bike and after some distance the biker stopped his bus and took the keys of his bus. After that, that boy had called his school and complained about him that this driver was driving the bus at speed. He also talked on the phone, then he (co-accused Subhash) said that he should quickly take the bus and reach the school. School children are getting late and that boy was also pressurized to give the key and that boy gave him the key. After which his friends Bhudev son of Sher Singh, Sandeep son of Dayaram, Naresh @ Kalia son of Shriram, Harish @ Nitu son of Lalchand residents of Sehlang, all had alighted at village Khedi and he took the bus and left from there (True translated copy of re-disclosure statement of accused Dharmender is enclosed herewith as Annexure TARY R-11). Thereafter, section 109 of IPC was added in the present case as the petitioner and his companions have abetted the driver of the bus to consume more liquor.

10. That during the course of investigation, on 13.04.2024, accused Sandeep OF IN and Harish were arrested in this case whose names have surfaced in the disclosure statement of driver Dharmender (Annexure R-11), according to which they had consumed the alcohol with driver Dharmender before the occurrence at about 7:00 AM. During interrogation, they suffered disclosure statement respectively wherein they have admitted

their involvement in the present crime and in pursuance of their disclosure statement they got demarcated the places from where they had purchased the liquor and where they had consumed the alcohol and the place where the hot conversation was occurred between Arun (biker) and bus driver Dharmender and Arun taken out the key of the bus and then Arun made the contact with school administration telephonically. On 14.04.2024, accused Sandeep and Harish were produced before the Ld. Court from where they were sent to judicial custody and since they are confined in District Prison at Narnaul. On 14.04.2024, accused Bhudev was arrested in this case who had consumed the alcohol with driver Dharmender before the occurrence at about 7:00 AM. During interrogation, he suffered disclosure statement wherein he has admitted his involvement in the present crime.

11. That during the course of investigation, on 15.04.2024, accused Naresh i.e. the petitioner was arrested in this case whose name has surfaced in re-disclosure statement of co-accused Dharmender i.e. driver of school's bus (Annexure R-11) who had consumed the alcohol with driver Dharmender before the occurrence at about 7:00 AM. During interrogation, he suffered disclosure statement. On the same day the petitioner and co-accused Bhudev got demarcated the places from where they had purchased the liquor, place of consumption and the place where the hot conversation was occurred between Arun and bus driver Dharmender and Arun taken out the key of the bus and then Arun made the contact with school administration telephonically. On 15.04.2024, accused Naresh i.e. the petitioner and co-accused Bhudev and Dharmender were produced before the Ld. Court of area Magistrate, Kanina from where they were sent to judicial custody and since they are confined in District Prison at Narnaul. On 17.04.2024, accused Hoshiyar Singh and Dipti were produced in the Ld. Court after completion of their five days police remand from where they were sent to juridical custody and since then they are confined in District Prison at Narnaul (Custody certificate of accused Naresh i.e. the petitioner is enclosed herewith as Annexure R-12).

12. That on 17.04.2024, co-accused Rajender Lodha who is the owner of G.L Public School, Kanina was arrested in the present case. During interrogation, he suffered disclosure statement wherein he disclosed that he is the chairman of Ganeshi Lal Public School, Kanina and he did this school in the year 2003. His son Subhash is director of the school who looks after all the work and transactions of the school and his daughter- in-law Dipti Yadav is the principal of the school who looks after the school staff and other work inside the school. On 18.04.2024, co- accused Rajender Lodha was produced in the Ld. Court and taken on O five days police remand and after completion of his police remand, on 23.04.2024, he was produced in the Ld. Court from where he was

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sent to judicial custody and since then he is confined in District Prison at Narnaul. During the course of investigation, on 08.05.2024, the investigating officer obtained the MLRs of injured Piyush son of Mahesh Kumar, Pooja D/o Mahesh Kumar and Pooja D/o Ramniwas from Aditya Hospital, Rewari and the MLRs of injured children namely Yashvi, Bhumika, Tanisk, Avni, Radhika, Piyush, Aditya, Aman, Babita, Hinu and Divya from Matrika Hospital, Rewari (Copy of MLRs of injured children Piyush, Pooja D/o Mahesh Kumar, Pooja D/o Ramniwas, Arav, Yashvi, Bhumika, Tanisk, Avni, Radhika, Piyush, Aditya, Aman, Babita, Hinu and Divya are enclosed herewith as Annexure R-13 to R-27). Thereafter, on 10.05.2024, section 177 of Motor Vehicle Act was incorporated and section 75 of Motor Vehicle Act was deleted.

13. That during the course of investigation, on 24.05.2024, accused Subhash Yadav surrendered before the Ld. Court of Area Magistrate, Kanina and after receiving the information regarding his surrendered, the investigating officer reached at Ld. Court Kanina and co-accused Subhash Yadav was joined in the investigation after getting the permission from the Ld. Court and he was arrested in this case. During interrogation, he suffered disclosure statement wherein he has admitted his involvement in the present crime alongwith the school management and disclosed that on 11.06.2024, in the morning time no call was received on his mobile no. 9050980729 from mobile no. 7942689195 whereas call was received by his brother Jai Parkash on his mobile no. 7669006067. Thereafter, he was taken on four days police remand and after completion of his police remand he was produced in the Ld. Court on 28.05.2024 from where he was sent to judicial custody. Thereafter, on 07.06.2024, the verification/investigation of this case conducted by the SHO, P.S. City Kanina wherein section 304 (1) of IPC was incorporated in the present case. After completion of investigation, challan u/s 173 (2) Cr.P.C was prepared against the petitioner and co-accused Dharmender, Sandeep, Harish, Bhudev, Hoshiyar Singh, Dipti Rao, Rajender Singh and Subhash Yadav which was presented in the Ld. Court of Area Magistrate, Kaninia on 14.06.2024 and now the case is fixed on 12.07.2024 for committal order.

14. That as per record of the Police Station, City Kanina no other criminal case is found registered/pending against the petitioner except the present case and he has not been declared proclaimed offender/person in this case at any point of time.

15. That the name of the petitioner has surfaced in the re-disclosure statement of co-accused Dharmender (Bus driver) (Annexure R-11) and disclosure statements of co-accused Harish, Sandeep and Bhudev who had consumed the alcohol alongwith the petitioner on the fateful day i.e. 11.04.2024 despite full knowledge that Dharmender driver was to take children/students

to school and abetted accused Dharmender. It is pertinent to mention here that during the course of investigation, it has been established that on 11.04.2024, at 7 am, driver Dharmender left home with his school's bus and when he reached at bus stand of their village then he found their villager Bhudev son of Sher Singh, Sandeep son of Dayaram, Naresh alias Kalia son of Shriram (petitioner), Harish @ Nitu son of Lalchand residents of Sehlang there. The petitioner alongwith his companions Bhudev, Sandeep and Harish sat in his bus and asked him to go on liquor vend and driver Dharmender went with them on on the liquor vend. From where accused Dharmender started turning the bus but the petitioner and co-accused Bhudev and Sandeep brought 2 bottles of country made liquor from the liquor shop. They all sat in the bus and left from there. When they reached near the temple of their village, they stopped the bus on the side and they all sat in the bus and started drinking alcohol. All five of them emptied both the bottles there. They were out of wine. So, everyone said that they will bring more liquor. Driver Dharmender told all of them that it was his school time and school children came inside the bus, then the petitioner and his companions said that children do not smell alcohol and how will the children know that he has drunk alcohol and they had encouraged driver Dharmender by saying that even if a child tells him that he is drunk, then threaten him, the child will get scared and sit quietly. Due to which the courage of driver Dharmender became more high and they went to village Khedi to get more liquor. When they reached near village Khedi, driver overtook a bike and after some distance the biker stopped his bus and took the keys of his bus and as such the petitioner was actively involved in this case. It is pertinent to mention here that the petitioner and his companions have abetted co-accused Dharmender who was driver of the school's bus and on account of the lapse of driver Dharmender the accident took place wherein six children died at the spot and 29 others were injured.

16. That keeping in view the gravity of the offences and its repercussion on the society at large, no case for bail is made out at this stage. It is submitted that mere long custody is not a ground to grant regular bail. It is pertinent to mention here that all one hundred five (105) prosecution witness including the complainant and material witnesses are yet to be examined. The sly manner, in which the petitioner and his companions namely Bhudev, Sandeep and Harish have abetted the co-accused driver Dharmender to consume the more liquor despite full knowledge that Dharmender driver was to take children/students to school. The petitioner as abetter is directly connected to accused involved in a serious case connected with school bus accident wherein six children died and many others got injured. It is pertinent to mention here that the petitioner is seeking regular bail in connection with FIR No.44 dated 11.04.2024 under Sections 109, 120B, 279, 336, 337, 304 of IPC and under Sections 185, 192 M.V. Act Police Station, City

Kanina. In this case, six children died and 29 were injured in an accident on account of driving of school bus by its driver Dharmender in inebriated condition who alongwith the petitioner had consumed liquor in the morning on 11.04.2024, sometime before the accident took place. As per the prosecution version, the petitioner and his companions Bhudev, Sandeep and Harish have abetted the driver Dharmender to take more liquor and in pursuance of their abetment he consumed more liquor and drove the school bus at a high speed wherein so many children were sitting and due to this reason accident took place wherein six children died and twenty nine got injured. The consumption of liquor by petitioner with Dharmender driver of the school bus in the morning, who was to take the school children to school speaks loud against him and as such the petitioner is not entitled to any bail, given the nature of allegations and gravity of offence. There is apprehension of the prosecution that if the bail application is allowed, the petitioner might stifle the trial, is certainly not unfounded. Right now, there is no reason to disbelieve the prosecution version. The case is of serious nature. The mere fact that the petitioner is in custody since long time is not sufficient to re-appreciate the facts while considering the request for extending concession of bail. It is pertinent to mention here that if the petitioner is enlarged on bail he may put the pressure on the prosecution witnesses and may abscond from the trial. It is submitted that the petitioner is one of the person who alongwith his companions had consumed the liquor with accused Dharmender who was driver of the school bus and abetted him to take more liquor despite full knowledge that Dharmender driver was to take children/students to school. Hence, keeping in view the totalities, facts and circumstances as well as gravity and seriousness of the present crime, the petition of the petitioner deserves to be dismissed."

6. Although there is prima facie sufficient evidence pointing towards the petitioner's incompetence and negligence which lead to the accident of vehicle in question. As per paragraph 5 of the bail petition, the petitioner is in custody since 15.04.2024. Given the nature of allegations, and role attributed to the petitioner, viz-a-viz pre-trial custody, coupled with the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage, petitioner to be released on bail subject to the compliance of terms and conditions mentioned in this order. Furthermore, the petitioner is a first offender, and one of the relevant factors would be to provide an opportunity to course correct.

7. 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

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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.

8. 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.

9. 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

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this Court.

10. 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.

11. 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

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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 petitioners/applicants 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)	

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 background of allegations against the petitioner and to protect the witnesses, it becomes paramount to protect the victim, 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

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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.

14. Till the completion of the trial, the petitioner shall not contact, call, text, message, remark, stare, stalk, make any gestures, or express any unusual or inappropriate, verbal or otherwise objectionable behavior towards the victim's family, either physically, or through phone call or any other social media, through any other mode, nor shall unnecessarily roam around the victim's home.

15. 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.

16. The conditions mentioned above imposed by this court are to endeavor that the accused does not repeat the offense 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."

17. 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.

18. 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.

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19. 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.
20. 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.
21. 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.
22. In return for protection from further incarceration, the Court believes that the accused shall also reciprocate through desirable behavior.
23. *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

16.07.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.