

CRM-M-29960-2024
CRM-M-30097-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Reserved on: 11.07.2024
Pronounced on:23.07.2024

1. CRM-M No.30097 of 2024

Joginder Singh alias Bittu ...Petitioner

Versus

State of Punjab ...Respondent

2. CRM-M No. 29960 of 2024

Amarjeet Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Digvijay Nagpal, Advocate
for the petitioner (in CRM-M-29960-2024)

Mr. Kulbhushan Raheja, Advocate
for the petitioner (in CRM-M-30097-2024).

Mr. Sukhdev Singh, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
10	06.05.2024	Vigilance Bureau Ferozepur Range, District Ferozepur	13(1)(a) read with Section 13(2) of Prevention of Corruption Act and amended Act, 2018 and Sections 409, 420, 465, 466, 467, 471, 120- B IPC

1. The petitioner(s) who are Patwari and another is his helping hand incarcerated in the FIR captioned above have come up before this Court under Section 439 CrPC seeking bail. Since the allegations are similar, both the petitions are being decided together and facts are taken from CRM-M-30097-2024.

2. As per paragraph 16 of the bail petition, the petitioner-Amarjeet Singh declares that he is not involved in any other case. Further, in paragraph 27 of the bail petition, the

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petitioner-Joginder Singh declares that there is no other FIR pending against him, however, as per custody certificate dated 10.07.2024, the petitioner-Joginder Singh is involved in case, the details of which are given as under:

FIR No.	Dated	Police Station	Sections
111	13.10.2018	Mamdot	420, 467, 468, 471, 120-B, IPC

3. The facts of the case are taken from reply dated 10.07.2024 which reads as under:

“2. That as per the investigation report a loan amount of 40 lacs was applied by co-accused Navdeep Singh in connivance with the abovementioned other co-accused after forging and fictitiously creating Jamabandi/revenue record of land area of 164 Kanals in Village Bahadur Ke, Tehsil Guruhar Sahai. The above said loan has been processed and disbursed by the bank on the basis of the forged and fictitious records created and devised by the accused petitioner in connivance with the above mentioned co-accused. The accused petitioner has facilitated and actively participated in the creation/processing of the forged and fabricated revenue documents/record in its official capacity as a private employee in the revenue department. .”

4. Petitioners’ counsel prays for bail by imposing any stringent conditions and is also voluntarily agreeable to the condition that till the conclusion of the trial before the trial court. The petitioners contend that the further pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

5. However, the State opposes bail while referring to the petitioners’ role as per para 4 of the reply which reads as under:

“4. Specific reply in letter and spirit of the order of the Hon'ble High Court:

(A) The role of the petitioner:

(i) Petitioner was employed in the private capacity in the revenue department and was reporting/under supervision of Patwaris Vinod Kumar and Amarjeet Singh (Both co- accused). During that period one of the co-accused Navdeep Singh (Loan Applicant) in connivance with the abovementioned other co accused, applied for agriculture credit limit/loan of Rs.40 Lakh with the bank. The accused petitioner was actively engaged in and facilitated in forging/fabricating and fictitiously creating Jamabandi/revenue record of land area of 164 Kanals in Village Bahadur Ke, Tehsil Guruhar Sahai in order to incorporate forged documents for application of the above said loan.

(ii) That as a matter of record that a user ID "0420" is/was authorized to the concerned patwari namely co-accused Vinod Kumar for accessing and executing revenue circle transactions at Fard Kendra Guruhar Sahai. It is

pertinent to mention that the above mentioned ID is entrusted by the state government and is technically enabled as a matter of course. The revenue record/transactions/execution can only be accessed after bio/thumb impression access/approval of the above mentioned authorized co accused patwari Vinod Kumar.

(iii) That it is submitted that the above mentioned co accused Patwari Vinod Kumar, who was a de jure authorized official of the above-mentioned revenue ID/User ID "0420" has illegally given access to the accused petitioner by modifying/adding/incorporating the credentials of the accused petitioner in order to grant him regular access for committing the offence by routing/forging records/transactions.

(iv) That it is submitted that during the course of the enquiry/investigation, it has also been additionally unearthed that the accused petitioner has suo moto/in its personal capacity had applied for one separated agriculture loan from Axis Bank Jalalabad by also forging/fabricating another revenue records and submitted the same during the course of his abovesaid loan application qua land measuring area 122 Kanals, 13 Marle, Village Bahadur Ke, Tehsil Guruhar Sahai, District Ferozepur which has got denied/rejected by the bank on the ground that the revenue record is false and forged."

6. Further, after the transfer of Vinod Kumar-Patwari, Amarjeet Singh-Patwari (the petitioner in CRM-M-29960-2024) joined in his place and Joginder Singh started assisting him. Allegations against Amarjeet Singh-Patwari are that he entered redemption of mortgage without intimating original owner, nor take any action or sent information to any authority qua forgery done by co-accused.

7. As per bail petitions, the petitioners are in custody since 06.05.2024 which is more than 02 months and the petitioners are first offenders.

8. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.

9. In Sanjay Chandra v. Central Bureau of Investigation, (2012) 1 SCC 40, Supreme Court holds,

[28] We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardize the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge sheet is already filed before the

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Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.

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 petitioners make 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 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 petitioners are not required in any other case, the petitioners shall be released on bail in the FIR captioned above, in the following terms:

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- (a). Petitioners 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/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). Petitioners 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 petitioners 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 petitioners are 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 shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number, (If available), when the court	

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	attesting the bonds, thinks appropriate or considers the accused as a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

14. The petitioners 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. During the trial's pendency, if the petitioners repeat or commit 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.

16. The conditions mentioned above imposed by this Court are to endeavour that the accused tries to reform, does not repeat the offence and to provide a sense of security to the victim. 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 petitioners and the Officer in whose presence the petitioners put signatures on personal bonds shall explain all conditions of this bail order in any language that the petitioner understands.

18. If the petitioners find bail condition(s) as violating fundamental, human, or other rights, or causing difficulty due to any situation, then for modification of such term(s),

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the petitioners 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.

19. 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.

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

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.*

Petition allowed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

23.07.2024
Sonia Puri

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No.