



CRM-M-30805-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30805-2024
Decided on:18.07.2024

Vikas Sabharwal J.E. ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Nikhil Ghai, Advocate and
Mr. Ankit Kundu, Advocate for the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
03	06.05.2024	Anti Corruption Bureau, Panchkula	7, 13(1)(b) r/w 13(2) of PC Act 1988

1. The petitioner apprehending arrest in the FIR captioned above, has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 22 of the bail petition, the accused declares that he has no criminal antecedents.
3. Vide order dated 04.07.2024, State was directed to file reply and petitioner’s arrest was stayed by this Court.
4. Petitioner's counsel prays for bail by imposing any stringent conditions. The petitioner contends that custodial interrogation and pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
5. Today, reply on behalf of the State has not been filed, however counsel for the State Mr. Rajat Gautam, Addl. AG, Haryana, submits that they have sufficient instructions to assist this Court and there is no need to file formal reply. However, this Court is of the opinion that once time is granted, response is not filed and there is no reason to offer opportunity to do the same considering the fact that allegations are not serious.



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6. Facts of the case are being taken from the FIR (Annexure P-1), which reads as follows:-

“Copy of the Complaint is as follows: Respected Sir, Director Anti-corruption bureau, Yamnu Nagar. Respected Sir, It is requested to you that I Sonu S/o Sh. Naresh Kumar Verma R/o House No. 2457, Vijay Nagar Colony, Near Bridiya Chownk, Jagadhari, District Yamuna Nagar am working as Property Advisor. My Mama's Son namely Devinder Verma S/o Sh. Mohan Lal Verma R/o Village Shahpur, District Karnal has a property 66 Sq Yards House in Vijay Nagar Colony Yamuna Nagar which he has brought on Full Payment Agreement. This House is in the name of Akram S/o Ishtaq, Ishtaq S/o Mustak Ahmed. I have arranged this house to my cousin about 4- 5 years back and we had obtained this over a full payment agreement. Now this House was sold through me to Shyam R/o Rajasthan and is presently running a ice cream street vendor stall in Jagadhari on full payment agreement. At that time Vijay Nagar Colony was unapproved due to which the sale agreement could not have been registered under law. But in February 2024 Vijay Nagar Colony was approved by the Government and now the Sale Agreements has to be registered in the name of its owner Shyam. For this Property ID is required. My Cousin Devinder had entrusted me with this task. Therefore i contacted Akram and Ishtaq and got prepared documents and on 01.03.2024 i had filed an application online for obtaining Property ID. I had uploaded all the documents online. ID No. 0527733960109 was issued and my mobile no. 9355630003 was attached. After checking on the online portal of Haryana Government I found an objection issued for incorrect GPS Map Location. I tried many times to upload the location through Camera, through SCS Center and other times from Nagar Nigam SCS Center but objections used to be raised again. I had visited Municipal Council Department many times and I met concerned officer Building Inspector Vikas Seharwal many times to whom i told that i am trying to upload the location through GPS Map Camera App correctly, yet objections are being raised on my application time and again and i asked why i am being harassed by repeatedly coming to the department. I told him that i am very tired due to this harassment. On 25.04.2024 I went to Municipal Council Office Jagadhari and i met Building Inspector Vikas Seharwal and i asked him as to how the property ID will be generated. He told me to meet Ashish who was deployed on computer and that my work will be done. As per his directions, i met Ashish, who told me that i will have to pay bribe to get issue the property ID and only upon paying the bribe property ID will be generated otherwise objections will be raised in same manner. In utter despair i agreed and told them to do my work. Ashish told me that he cannot create the ID right now and that he will call him later. Then Ashish kept on calling me to his office by calling me from his mobile No. 7206793420 upon my mobile No. 9355630003. On 02.05.2024, Ashish called me many times and called me to his office. I



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went to the office of Municipal Council and met Ashish. He told me that my ID will be created upon which i asked him when my id will be generated. Ashish then told me that he will call me and meet me outside the office of Municipal Council. He called me at around 7PM and called me at Woodiya Chownk Jagahdari. I did not want to give bribe and i met him at Woodiya Chownk where Ashish demanded Rs 3000 for generating the property ID and told me that my ID will be created tomorrow itself. I told him that I do not have three thousand rupees in cash and i can transfer it through PhonePay upon which he refused and told me that I have to pay him in cash. I have a recording of the same. I can present in later. Ashish has called me today with the bribe money at Woodiya Chownk Jagadhari. I do not want to give him bribe and I want to get him arrested red handed. To stop corruption I am submitting my complaint, kindly take strict legal action.”

7. Petitioner’s counsel submits that allegations are against one Ashish and petitioner has no role at all. He further submits that even a raid was organized and accused Ashish, Computer Operator Municipal Corporation, Jagadhri was arrested by Anti Corruption Bureau on 06.05.2024. It is also submitted that even after a lapse of 1 ½ months, no efforts were made to arrest the petitioner and in case, there was any serious allegation he could have been arrested on the very same date. Even in the application for seeking judicial remand of Ashish, there was no allegation against the petitioner. State counsel does not deny the arguments made by the petitioner’s counsel but submits that petitioner’s bail was dismissed by the Sessions Court and he is not entitled to bail.

8. An analysis of the above said arguments reveals that petitioner is a first offender and not the main accused and recovery was also effected from main accused-Ashish, who was nabbed. Thus, given the penal provisions imposed and the sentence provided by the Legislature, the nature of allegations coupled with the fact that the petitioner is a first offender, and one of the relevant factors would be to provide an opportunity to course correct.

9. 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 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



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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.

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 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. 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.

11. 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



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irrespective of the contents of the form of bail bonds in chapter XXXIII of CrPC, 1973.

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 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 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/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 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



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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 court 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 petitioner is directed to join the investigation within seven days and also as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer; and shall cooperate with the investigation at all further stages as 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, let off before 6 PM, and shall not be subjected to third-degree, indecent language, inhuman



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treatment, etc.

15. 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.

16. Petitioner to comply with their undertaking made in the bail petition, made before this court through counsel as reflected at the beginning of this order. If the petitioner fails to comply with any of such undertakings, then on this ground alone, the bail might be canceled, and the victim/complainant may file any such application for the cancellation of bail, and the State shall file the said application.

17. 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.

18. 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.

19. 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.

20. 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.

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

22. *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*



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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

18.07.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.