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

CRM-M-31040-2024

Reserved on: 17.07.2024

Decided on: 25.07.2024

Piara Singh

...Petitioner

Versus

## State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Parvez Chugh, Advocate  
for the petitioner.

Mr. Gurpartap S. Bhullar, AAG, Punjab.

\* \* \* \*

ANOOP CHITKARA, J.

| FIR No. | Dated      | Police Station                                              | Sections                         |
|---------|------------|-------------------------------------------------------------|----------------------------------|
| 0012    | 03.06.2024 | Vigilance Bureau,<br>Range Ferozepur,<br>District Ferozepur | 7 of PC (amendment ) Act<br>2018 |

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 7 of the bail petition, the accused declares that he has no criminal antecedents.
3. 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.
4. The state's counsel opposes the bail and states that considering the allegations, the petitioner's custodial interrogation is necessary.
5. Facts of the case are being taken from reply dated 09.07.2024, which reads as under:-

*"That a Complaint No.152677 dated 16.02.2024 was got registered by complainant Veeru Singh son of Dhola Singh on Anti Corruption Helpline wherein the complainant alleged that he has got registered FIR No.142 dated 13.08.2023 under sections against Joginder Pal 324, 34 IPC Gulabi*

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*etc. investigation of which was carried out by present petitioner ASI Piara Singh. During investigation, offence under Section 326 IPC was added vide rapat No.12 dated 09.09.2023. It was also alleged that the petitioner used to take money from complainant for presenting challan in the Court but he never presented the same. Firstly, the complainant paid Rs.2500/- on 01.02.2024 a bus stand Lahuka Mandi and secondly he paid Rs.2000/- on 02.02.2024 to petitioner near Flyover Fazilka and he made recording of both these scenes in his mobile phone.”*

6. Counsel for the petitioner seeks bail on the basis of false implication and submits that petitioner, who is aged 59 years and considering the retirement age of service and he being first offender, there would be no justification to send him for custodial interrogation after serving his country with unblemished and clean track record. State opposes the bail and refers to role of the petitioner and evidence against him as mentioned in para Nos.3(b), 4 & 5 of the reply dated 09.07.2024, which reads as under:-

*“3(b) That the above noted complaint No.152677 dated 16.02.2024 of the complainant was thoroughly got inquired by Inspector Chander Shekhar. After carrying out in- depth inquiry into the matter, prima facie, offence under section 7 of P.C. Act is made out against the petitioner. After obtaining legal opinion from A.D.A. (Legal) Vigilance Bureau, Ferozepur, and as per letter No.5593/VB/A-2 dated 30.05.2024 of S.S.P. Vigilance No.12 Range Ferozepur, Bureau, dated against the 03.06.2024 FIR was registered petitioner present under section 7 of Prevention of Corruption Act, 1988 (as amended by P.C. Amendment Act, 2018) registered at police station, Vigilance Bureau, Range Ferozepur against the petitioner Piara Singh.*

*c) That the investigation of the present FIR is still underway.*

**ROLE OF PETITIONER:**

*4. That it is respectfully submitted that as per preliminary probe carried out into the matter so far, the role of petitioner has been established to the effect that the petitioner has been found demanding bribes from the complainant repeatedly. Therefore, prima facie, cognizable offence is made out against the petitioner. Hence, the petitioner cannot shirk his criminal liability.*

**EVIDENCE AGAINST THE PETITIONER:**

*5. That besides oral evidence against petitioner, the complainant has produced pendrive containing audio recording the a of petitioner and complainant while demanding bribe from the complainant and the transcript thereof has also been prepared. From the examination of the audio recording and transcript, prima facie, cognizable offence has been made out against the petitioner. Transcripts of conversation between petitioner and complaint are appended as Annexure R-1/T and Annexure R-2/T for the kind consideration of this Hon'ble Court.”*

7. Given the penal provisions imposed and the sentence provided by the Legislature, the nature of the allegations, coupled with the fact that the petitioner is a first offender,

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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 bail.

8. 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 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.

9. 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

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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.

10. 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.

11. 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.

12. 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

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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 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)                                                                                                          |  |

13. The petitioner is directed to join the investigation within seven days and also as

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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 treatment, etc.

14. 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.

15. 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 or in earlier orders. 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.

16. 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.

17. 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.

18. 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 a 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.

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.

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20. *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**

25.07.2024  
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|----------------------------|-----|
| Whether speaking/reasoned: | Yes |
| Whether reportable:        | No. |