

CRM-M-31298-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31298-2024
Reserved on: 15.07.2024
Pronounced on: 22.07.2024

Prabhjot Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Yagsimant Attri, Advocate
For the petitioner.

Mr. G.S. Bhullar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
49	03.04.2024	City Sunam, District Sangrur	489-B, 489-C IPC

1. The petitioner, a boy aged 21 years and who is a first offender, apprehending arrest in the FIR captioned above for dealing in counterfeit currency notes worth Rs.3,000/, has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 8 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.
5. Facts of the case are being taken from reply dated 11.07.2024 filed by the concerned DySP, which reads as follows:-

“That pursuant to the said order, it is submitted that the brief facts of case/FIR No. 49 dated 03.04.2024 under section 489-B,489-C IPC Police Station, City Sunam are that on 03.04.2024 ASI Darshan Singh 2139/SGR Police Post, City Sunam alongwith police party was present at grain

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market Sunam, at about 9:30 PM, a secret informer gave him information Kiranjeet Singh alias Karan son of Maghar Singh resident of Parmanand Basti, City Sunam and Prabhjot Singh alias Prabh son of Daljit Singh resident of Backside National Dhaba, Sangrur Road, Sunam, District Sangrur are in the habit of possessing fake currency and operating it further. Even today, they will come to wine shop to purchase liquor at New Anaj Mandi, Sunam on motor cycle along with fake currency. If nakabandi be conducted, then they could be arrested along-with fake they currency. The information was true and reliable. The act of Kiranjeet Singh @ Karan and Prabhjot Singh @ Prabhu of keeping the fake currency in their possession, fulfills the definition of offence u/s 489-B,489-C IPC. Then, ASI Darshan Singh by sending the ruqa to the Police Station got registered the present FIR against Kiranjeet Singh @ Karan and Prabhjot Singh @ Prabhu."

6. Petitioner seeks bail on the grounds that even if allegations are admitted, petitioner was unaware that currency notes were counterfeit, however State counsel opposes the bail by drawing the attention to the petitioner's role which is mentioned in 8A of the reply which reads as follows:-

" The present FIR was registered against accused/petitioner Prabhjot Singh @ Prabhu and Kiranjeet Singh @ Karan on the basis of secret information received by ASI Darshan Singh. During nakabandi held at Grain market Sunam, nearby the wine shop, accused Kiranjeet Singh @ Karan was apprehended, however, accused/petitioner Prabhjot Singh @ Prabhu succeeded to fled away from the spot alongwith motorcycle. On conducting search of polythene envelope thrown by Kiranjeet Singh @ Karan, 6 fake currency notes each denomination of Rs. 500/- (total Rs.3000/-of fake currency) were recovered from his possession. On the basis of disclosure made by accused Kiranjeet Singh @ Karan, Maninder singh @ Goldy and Naresh Kumar were nominated as accused in this case on 08.04.2024. So, a specific role is attributed to the petitioner in the commission of present offence."

7. Although there is some evidence prima facie connecting the petitioner to crime but despite that it is neither a case for custodial interrogation nor pre-trial incarceration for the reason that amount involved was of Rs.3,000/- and petitioner is a young boy aged 21 years with no criminal antecedents.

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

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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 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.

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

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

11. 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.

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 will furnish a 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 if the concerned Judicial Magistrate is unavailable, go to any other nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned officer/court must be satisfied that if the accused fails to appear in court, such surety can produce the accused.

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 favor 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

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well-established and stable private sector banks. Suppose the bankers are unwilling to make a Fixed Deposit in such an eventuality. In that case, it shall be permissible for the petitioner to prepare an account payee demand draft favoring the 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 must 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 attesting officer/court considers it appropriate or considers the accused 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 and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act/ or S. 23(2) of BSA. 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, the prosecution will be open to seeking 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

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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. 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. During the trial's pendency, if the petitioner repeats or commits 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.

17. The conditions mentioned above imposed by this Court are to endeavor that the accused does not repeat the offense and to give 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."

18. The applicant's advocate and the officer in whose presence the applicant signs personal bonds shall explain all terms of this bail order to the applicant in a language they can comprehend.

19. 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,

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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.

20. 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.

21. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense 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.

22. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

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

24. *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

22.07.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.