



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

(126)

CRM-M-40152-2024

DATE OF DECISION: 21.08.2024

Smt. Suman

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM HON'BLE MS.JUSTICE KIRTI SINGH

Present Mr.Ravinder Dhankhar, Advocate,
for the petitioner.

Mr.Anmol Malik, DAG, Haryana.

KIRTI SINGH, J (ORAL)

1. This petition under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 has been filed for quashing / setting aside the impugned condition in the order dated 27.05.2024 (Annexure P-1), passed by learned Additional Sessions Judge, Sonipat on first Bail Application No.1366 of 2024 (Annexure P-2) under Section 439 Cr.P.C in case FIR No.264 dated 09/08/2023, under Sections 120-B, 406, 420, 467, 468 and 471 IPC, registered at Police station Civil Lines Sonipat (Annexure P-3), vide which the petitioner was ordered to be released on bail on her furnishing bail bonds in the sum of Rs.1,00,000/- with one surety in the like amount to the satisfaction of Id. Illaqa Magistrate and on furnishing FDR in the name of court of learned Illaqa Magistrate to the tune of Rs.15,00,000/-.



2. Facts in brief are that it is alleged that the accused along with other co-accused had siphoned off an amount of Rs.24,25,000/- in total from the complainant by misrepresenting that they would get the son of the complainant employed in a government job.

3. Counsel for the petitioner *inter alia* submits that petitioner has been falsely implicated in this case and she had been duped by other accused for arranging a job for her own children. It is further stated that she is having medical issues and is suffering from high blood pressure and has also been detected with Cancer.

4. It is further submitted that the petitioner was arrested on 28.03.2024 by the police and on 08.05.2024, she filed a bail application, which was allowed by the learned Additional Sessions Judge vide order dated 27.05.2024. However, an onerous condition of furnishing of FDR in the name of the Court of learned Illaqa Magistrate to the tune of Rs.15,00,000/- was imposed. It has been stated that while granting bail an onerous condition has been imposed upon the petitioner which is impossible for her to fulfil due to which she is still languishing behind bars despite being granted bail about three months ago.

5. Learned counsel for the petitioner further places reliance upon the law laid down in **Suresh Kukreja v. State of M.P & Anr. 2021(4) Law Herald (SC) 3170**, **Sumit Mehta v. State of NCT of Delhi (2014) 1 SCJ 190** and **Guddan @ Roop Narayan v. State of Rajasthan 2023 Live Law (SC) 45**.

6. Notice of motion.

7. On the asking of the Court, Mr.Anmol Malik, DAG, Haryana accepts notice on behalf of respondent(s)-State.



8. I have heard the learned counsel for the parties and have gone through the law cited above.

9. It has been held by Hon'ble Supreme Court in **Dilip Singh v. State of Madhya Pradesh and anr. 2021(1) Law Herald (SC) 657** to the following effect:-

“5. It is well settled by a plethora of decisions of this Court that criminal proceedings are not for realization of disputed dues. It is open to a Court to grant or refuse the prayer for anticipatory bail, depending on the facts and circumstances of the particular case. The factors to be taken into consideration, while considering an application for bail are the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution; reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; character behaviour and standing of the accused; and the circumstances which are peculiar or the accused and larger interest of the public or the State and similar other considerations. A criminal court, exercising jurisdiction to grant bail/anticipatory bail, is not expected to act as a recovery agent to realise the dues of the complainant, and that too, without any trial.”

10. Admittedly, the petitioner was granted concession of regular bail vide order dated 27.05.2024 i.e about three months ago and till date, the petitioner is languishing behind bars due to her inability to fulfil the conditions imposed while granting bail. Further, imposing such onerous conditions while granting bail defeats the very purpose of granting bail.



11. Keeping in view the proposition of law laid down in Dilip Singh’s case (supra), and considering the facts of the present case, this Court is of the considered opinion that direction of furnishing FDR in the name of Court of learned Illaqa Magistrate to the tune of Rs.15,00,000/-, issued in order dated 27.05.2024 (Annexure P-1), passed by learned Additional Sessions Judge, Sonipat on first Bail Application No.1366 of 2024 (Annexure P-2) vide which the petitioner was ordered to be released on bail on her furnishing bailbonds in the sum of Rs.1,00,000/- with one surety in the like amount to the satisfaction of ld. Illaqa Magistrate, is onerous as the direction seems to be virtually issued in the nature of recovery in a civil suit.

12. Resultantly, the petition is allowed and impugned order dated 27.05.2024 (Annexure P-1) is modified to the extent to furnish FDR to the tune of Rs.1,00,000/-instead of Rs.15,00,000/- in the name of Court of learned Illaqa Magistrate.

21.08.2024
mamta

(KIRTI SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No