

2024:PHHC:166610



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

300

CRM-M No.45368 of 2024
Date of Decision: 11.12.2024

Mandeep ... Petitioner

Versus

State of Haryana and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vikas Lochab, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

Mr. Subhash Thatai, Advocate,
for respondent No.2.

MANISHA BATRA, J. (Oral)

1. The petitioner herein is seeking quashing of order dated 02.09.2024 passed by the Court of learned Additional Sessions Judge, Panipat in application bearing CIS No.357 of 2024 filed in connection with BA-1839 of 2024 arising out of FIR No.1572 dated 26.12.2023 registered under Sections 120-B, 420, 467, 468 and 471 of IPC at Police Station Panipat City, District Panipat whereby the bail of the petitioner was ordered to be cancelled on an application moved by the respondent No.2.
2. Brief facts relevant for the purpose of disposal of this



petition are that the aforementioned FIR had been lodged against the petitioner on the basis of a complaint filed by the respondent No.2. The petitioner was extended benefit of bail vide order dated 22.04.2024 (Annexure P-2). Relevant part of this order is reproduced as under:-

“13. Shri Joginder son of Bishamber age 48 years resident of village Bapoli District Panipat (father of the accused Mandeep) made following statement:

“It is stated that I am the father of petitioner/accused- Mandeep, who is in judicial custody in following two FIRs:

FIR No.1544 dated 20.11.2023 under sections 420, 467, 468, 471, 120-B IPC, P.S. City, Panipat lodged by DCB Bank, G.T. Road, Panipat relating to loan of Rs.16 lacs.

2. FIR no.1572 dated 26.12.2023, under sections 420, 467, 471, 120-B IPC, P.S. City, Panipat lodged by ICICI Home Finance Company, Panipat relating to loan of Rs.25 lacs.

It is stated that my son Mandeep is in judicial custody for the last five months approximately. It is requested that conditional bail may be granted to my son. I undertake to pay/return above loans of Rs.16 lacs and Rs.25 lacs of DCB Bank and ICICI Home Finance Company, Panipat, respectively as under:

DCB Bank, Panipat, (Rs.16,00,000/-)

<i>Rs.2,00,000/-</i>	<i>On or before</i>
	<i>16.6.2024</i>
<i>Rs.2,00,000/-</i>	<i>On or before</i>
	<i>15.08.2024</i>
<i>Rs.2,00,000/-</i>	<i>On or before</i>
	<i>15.12.2024</i>
<i>Rs.2,00,000/-</i>	<i>On or before</i>
	<i>15.3.2025</i>
<i>Rs.2,00,000/-</i>	<i>On or before</i>
	<i>15.06.2025</i>



Rs.2,00,000/-	On or before
	15.08.2025
Remaining	On or before
	25.12.2025

ICICI Home Finance Company, Panipat (Rs.25,00,000/-)

Rs.3,00,000/-	On or before
	16.6.2024
Rs.3,00,000/-	On or before
	15.8.2024
Rs.3,00,000/-	On or before
	15.12.2024
Rs.3,00,000/-	On or before
	15.3.2025
Rs.3,00,000/-	On or before
	15.6.2025
Rs.3,00,000/-	On or before
	15.8.2025
Remaining	On or before
	25.12.2025

14. Having regard to above facts and circumstances and promise made by petitioner through his father to repay amount in question, which also included amount involved in the present FIR and the fact that petitioner stood granted conditional bail in FIR no.1544, and the fact that trial is likely to take sufficient time for conclusion petitioner deserves grant of conditional bail.

15. Therefore bail application is **allowed**. Petitioner shall be admitted to bail on his executing personal bonds in the sum of Rs.1,00,000/- with one surety in the like amount (surety shall have immovable property in his/her name) to the entire satisfaction of learned Trial Court/Duty Magistrate. However said bail shall be a **conditional bail** that petitioner shall abide by payment of schedule mentioned above and in case of breach of any of the conditions in repayments to both DCB and ICICI

2024.PHHC:166610



Home Finance Company in that eventuality bail of the petitioner shall be liable to be dismissed on an application filed by any of said financial institutions. It is clarified that by virtue of above statement of father of the accused promising to return money of both the financial institutions, other rights of said financial institutions to claim interest etc. shall not be effected and such institutions shall be within their rights to lodge appropriate civil proceedings as the case may be.

16. *A copy of this order be sent to followings:*

1. *Learned Trial Magistrate of P.S. City Panipat.*
2. *Manager DCB Bank, Limited 76-77 Oriental Plaza, GT Road Panipat*
3. *Manager ICICI Home Finance Company, Panipat.*

17. *File be consigned to the record room after due compliance. “*

3. Subsequently, the respondent No.2-complainant moved application bearing CIS No.357 of 2024 for cancellation of benefit of bail granted to the petitioner vide order dated 22.04.2024 on the ground that there was non compliance of the conditions of the said order. The Court of learned Additional Sessions Judge, Panipat allowed this application by observing that since there was violation of conditions of the bail order dated 22.04.2024, therefore, the prayer for cancellation of bail deserved to be allowed. Simultaneously, the application filed by the present petitioner for lifting the conditions imposed at the time of grant of bail vide order dated 22.04.2024 had been dismissed.

4. It is argued by learned counsel for the petitioner that the impugned order dated 02.09.2024, is not sustainable in the eyes of law as, it

was his father Sh. Joginder who had made a statement before the concerned

2024.PHHC:166610



Court thereby undertaking to repay money to the complainant-Bank and not himself. It is submitted that the conditions so imposed were even otherwise very onerous as the petitioner has no source of income. This condition in fact acted as a refusal to grant of bail and hence could not be imposed. It is submitted that the petitioner has not misused the concession of bail granted to him. Investigation stands completed. His further detention is not going to serve any useful purpose and, therefore, it is urged that the impugned order whereby his bail was ordered to be cancelled, is liable to be set aside. In support of his argument, the petitioner's counsel has placed reliance upon cases reported as **Guddan @ Roop Narayan v. State of Rajasthan**, 2023 (1) R.C.R. (Criminal) 762 & **Arun Kumar v. State of Bihar and another**, 2023 (2) JCC 842.

5. Per contra, learned Assistant Advocate General, Haryana assisted by learned counsel for respondent No.2, has vehemently argued that the impugned order does not warrant any interference as the same is well reasoned. The petitioner had been extended benefit of conditional bail vide order dated 22.04.2024, keeping in view the fact that offer for imposing such conditions had been made by none other than the father of the petitioner who was pursuing the bail application of the petitioner on his behalf. It is submitted that since there were serious allegations against the petitioner and his prayer for grant of bail was not to be allowed on merits. As such it was on the asking of his father who undertook to repay the amount of money payable to the respondent No.2-Bank, that the petitioner had been extended benefit of bail. It is submitted that now the petitioner wants to take benefit of

2024.PHHC:166610



this fact which cannot be accepted. Therefore, it is urged that the petition does not deserve to be allowed.

6. I have heard learned counsel for the parties at considerable length and have gone through the record.

7. The petitioner has been booked for commission of offences of cheating, forgery and use of forged documents on the allegations that he along with the co-accused had availed loan of a sum of Rs.25 lakhs from the respondent No.2 on execution of loan agreement and deposit of title deeds of his property by mortgaging the same but subsequently he had defaulted making repayment and it was also found that he had already mortgaged the same property by availing loan from DCB Bank, Panipat. As per the allegations, he had also used forged documents. Vide order dated 22.04.2024 the prayer made by the petitioner for grant of bail had been allowed conditionally on his abiding by payment of schedule as mentioned above and it was also clarified that in case of any breach in conditions of repayment, his bail would be cancelled. Obviously, he failed to abide by these conditions.

8. Now the stand taken by the petitioner is that since the undertaking before the concerned Court had been given by his father and not by himself, therefore, he was not liable for such undertaking. So far as the contention that the conditions of the bail were onerous/excessive and hence should not have been imposed upon him are concerned, the same do not deserve to be accepted in view of the fact that it was not the concerned Court which had imposed such conditions while passing the order dated

2024.PHHC:166610



22.04.2024, rather the same were imposed on the basis of offer made by father of the petitioner himself. As such, it does not lie in the mouth of the petitioner to say that the condition so imposed was excessive/onerous and he was not liable to comply with the same. The learned trial Court while passing the order dated 22.04.2024 had not considered the case of the parties on merits. In **Guddan @ Roop Narayan's** case (Supra), the Hon'ble Supreme Court had observed that while granting bail, conditions for grant thereof should not be so onerous that their existence itself tantamounts to refusal of bail. In **Arun Kumar's** case (Supra), it was observed that onerous conditions should not be imposed while granting bail. However, in that case, since the case of the appellant therein had not been considered on merits but he was granted bail on offer made by counsel for the accused that he was ready and willing to deposit the said amount, therefore, the matter was remitted to High Court for consideration on merits.

9. In view of the observations made in the above cited authorities, it is apparent that though onerous conditions should not be imposed while granting bail to an accused, however, when the same have been offered on behalf of the accused himself, then the situation is different. The petitioner herein had filed bail application before the Court of learned Additional Sessions Judge, Panipat through his father as he was in custody at that time. The offer in repayment had been made by his father and was accepted by the Court by passing the order dated 22.04.2024. The said order has not even been impugned before this Court and the challenge is only to the order dated 02.09.2024 whereby the bail of the petitioner was ordered to be cancelled. In

2024.PHHC:166610



the considered opinion of this Court, the learned trial Court had rightly observed that the petitioner had committed violation of conditions of the bail order and since it was a conditional bail order, therefore, the benefit of bail as extended to the petitioner had rightly been cancelled. It has come to the notice of this Court that the petitioner has not even surrendered after passing of the impugned order dated 02.09.2024 till date. In view of the discussion as made above, this Court finds no reasonable ground to allow the petition. Accordingly, the same is dismissed.

10. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

11.12.2024
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No