

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-61489-2023 (O&M)
Date of order: 11.01.2024

Pal Singh
... Petitioner(s)
Versus
State of Haryana
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
Present:- Mr. Paras Jagga, Advocate
for the petitioner(s).
Mr. Vikrant Pampoo, Sr. D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
2	21.7.2020	State Vigilance Bureau, Hisar	166, 166A, 167, 193, 217, 218, 347, 384, 467, 468, 471, 120-B IPC read with Section 13(1)(d) of Prevention of Corruption Act, 1988

1. The petitioner incarcerated arrest in the FIR captioned above, had come up before this Court under Section 439 CrPC seeking regular bail.]
2. The petitioner has not disclosed his criminal antecedents. However, as per the custody certificate, the petitioner has no criminal history.
3. Facts of the case are being extracted from the reply filed by the State by way of affidavit of concerned DySP, which reads as under:-

“2. That the brief facts of the case are that the present case was registered pursuant to judgement dated 18.01.2017 passed court of Ld. ASJ, Hisar whereby the co-accused Rajkumar Yadav, Assistant Mining Engineer was acquitted and an investigation was ordered to be conducted by Senior Police Officials so as to ensure fair investigation. Therefore, investigation in the matter was conducted by Deputy Superintendent of Police, State Vigilance Bureau, Hisar under the supervision of the SP, State Vigilance Bureau, Hisar Division. It has been alleged in the FIR that on 03.01.2014, Pal Singh (Petitioner) owner of truck No. HR-39-B-1586 talked to Phool

Singh the then DSP and they had conversation of 71 seconds. As per record, the Phool Singh who was the then DSP sent a tehrir' in FIR No. 4 dated 09.10.2014 at 4:40 pm from his office at State Vigilance Bureau, whereas on the said date and time, his mobile location along with officials of raiding party was at Tohana, Fatehabad. Besides this it was further alleged that Phool Singh the then DSP misused his powers and pressurized Raj Kumar Yadav, Assistant Mining Engineer to release truck and tractor without depositing penalty and caused loss to the State exchequer. With the above stated allegations, the case FIR No. 02 dated 21.07.2020 u/s 166, 199, 200, 204, 120-B IPC & 13(1)(d) PC Act, 1988 PS, SVB, Hisar was registered against the petitioner and three other persons.

3. That during the course of investigation, it was found that on 03.01.2014 Rajkumar, AME Mining Department, Hisar had caught Truck No. HR39B 1586 and Tractor No. HR71 6057 which were engaged in illegal mining and the same were sent to Police Station Uklana, Distt. Hisar and Truck No. 61A-0937 was sent to Police Station, Barwala, Distt. Hisar. It was found that on 03.01.2014 the owner of truck No. HR-39B 1586 namely Pal Singh (Petitioner) had talked from his mobile phone number 9812105100 with Phool Singh Deputy Superintendent of Police, on his mobile phone No. 9812708188 for 71 seconds. It shows the fact that from which it appears that Pal Singh (Petitioner) was already known to Phool Singh, Deputy Superintendent of Police.
4. That during the course of investigation in FIR No. 04/2014 under sections 7,13 PC Act, PS, State Vigilance Bureau on the day of the raid, a written application was given by Suresh Kumar to investigating Officer Phool Singh, Deputy Superintendent of Police in the office of the State Vigilance Bureau, Hisar. on 21.07.2014 Manjit Singh who Accounts Officer, Mining Department, Hisar dated 27.01.2014 at 09:00 am produced record in the office of DSP Phool Singh and DSP Phool Singh sent a written copy of the complaint upon which a case FIR No. 04 dated 09.01.2014 was registered under section 7,13 PC Act Police Station, State Vigilance Bureau, Hisar from the office of State Vigilance Hisar upon which time mentioned was 04:40 PM, dereas DSP Phool Singh was not present in the office of State Vigilance Bureau, at that time. The tower location of mobile phones of DSP Phool Singh and the raiding party employees at 04:40 pm was found to be in the area of Tohana (District Fatehabad) whereas, as per the above mentioned police file, raid action is shown to be conducted in Tohana after 06:00 PM. But the location of mobile phone of DSP Phool Singh and the raiding party at 6:00 PM was found to be in Hisar City. Constable Sunil Kumar No. 143/Hisar was found to be wrongly shown as involved in the raiding party.
5. During the course of investigation, FIR No.04 dated 09.01.2014 u/s 7, 13 PC Act, Police Station, State Vigilance Bureau, Hisar has been found to have been falsely registered against Mining Officer Rajkumar Yadav by conspiracy of Complainant Suresh Kumar and Shadow witness Naib Singh and his brother Pal Singh (Petitioner) and investigating officer

Phool Singh, the then Deputy Superintendent of Police. They had shown the fine amount of Rs. 15,000 for the release of truck No. HR39B1586 and Tractor No. HR716057 as the bribe amount and a false FIR was lodged by Phool Singh, DSP by misusing his powers and creating pressure upon Rajkumar Yadav for releasing Truck No. HR39B 1586 and Tractor No. HR71 6057. Thus, financial loss was caused to the government by issuing release order without payment of fine.

- 6 That during the course of investigation the co-accused Phool Singh was arrested on 22.03.2023 and co-accused Suresh Kumar was arrested on 24.03.2023 and co-accused Suresh Kumar is on bail by the order of Hon'ble High Court in CRM- M No. 34359 of 2023 on 24.07.2023. And Co-accused Phool Singh is on bail by the order of Hon'ble High Court of Punjab and Haryana, Chandigarh in CRM-M No. 46231 of 2023 on 29.11.2023. Further Pal Singh (accused/Petitioner) and co- accused Naib Singh were arrested on 18.09.2023 and 22.09.2023 respectively and Petitioner/accused Pal Singh is in judicial custody. The Co-accused Naib Singh was released on bail by the Hon'ble High Court of Punjab and Haryana in CRM-M No. 46883 of 2023 on 22.11.2023.

4. Counsel for the petitioner submits that petitioner has already undergone custody of more than 3 months and 22 days as per custody certificate dated 9.1.2024 and all the co-accused have been granted bail by this Court vide orders mentioned in the reply quoted above. Petitioner's counsel prays for bail by imposing any stringent conditions and is also voluntarily agreeable to the condition that till the conclusion of the trial before the trial court, the petitioner shall keep only one mobile number, which is mentioned in AADHAR card, and within fifteen days of release from prison undertakes to disconnect all other mobile numbers. The petitioner contends that the further pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

5. State counsel does not disputes the custody of the petitioner as well as the fact that other co-accused have been enlarged on bail.

6. As per paragraph 6 of the bail petition as well as custody certificate, the petitioner is in custody since 18.9.2023. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the *prima facie* analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.

7. In Sanjay Chandra v. Central Bureau of Investigation, (2012) 1 SCC 40, Supreme Court holds,

[28] We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardize the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.

8. 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 conditions.

9. 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.

10. 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.

11. 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 court, and in case of non-availability, to any 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 court 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 the 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 petitioners/applicants 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)	

12. 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.

13. 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.

14. The petitioner is directed not to keep more than one prepaid SIM, i.e., one pre-paid mobile phone number, till the conclusion of the trial; however, this restriction is only on prepaid SIMs [mobile numbers] and not on post-paid connections or landline numbers. The petitioner must comply with this condition within fifteen days of release from prison. The concerned DySP shall also direct all the telecom service providers to deactivate all prepaid SIM cards and prepaid mobile numbers issued to the petitioner, except the one that is mentioned as the primary number/ default number linked with the AADHAAR card and further that till the no objection from the concerned SHO, the mobile service providers shall not issue second pre-paid SIM/ mobile number in the petitioner’s name. Since, as on date, in India, there are only four prominent mobile service providers, namely BSNL, Airtel, Vodafone-Idea, and Reliance Jio, any other telecom service provider are directed to comply with the directions of the concerned Superintendent of Police/Commissioner of Police, issued in this regard and disable all prepaid mobile phone numbers issued in the name of the petitioner, except the main number/default number linked with AADHAR, by taking such information from the petitioner’s AADHAR details or any other source, for which they shall be legally entitled by this order. This condition shall continue till the completion of the trial or closure of the case, whichever is earlier. In Vernon v. The State of Maharashtra, **2023 INSC 655**, [para 45], while granting bail under Unlawful Activities (Prevention) Act, 2002, Supreme

Court had directed imposition of the similar condition, which reads as follows, “(d) Both the appellants shall use only one Mobile Phone each, during the time they remain on bail and shall inform the Investigating Officer of the NIA, their respective mobile numbers.”

15. 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.

16. The conditions mentioned above imposed by this Court are to endeavour that the accused tries to reform, does not repeat the offence and to provide 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.”

17. Any Advocate for the petitioner and the Officer in whose presence the petitioner puts signatures on personal bonds shall explain all conditions of this bail order in any language that the petitioner understands.

18. 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, 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.

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.

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

21. *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

January 11, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes