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

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Decided on: 21.05.2025

Abdul Kalim

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Ms. Suman Agnihotri, Advocate for
Mr. Chaman Deep, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

SANJAY VASHISTH, J.

1. Present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). Petitioner-Abdul Kalim, seeks modification of the bail order dated 02.07.2024, passed by the learned Additional Sessions Judge, Sonapat, in Bail Application No. 1590 of 2024, arising out of FIR No. 14 dated 19.02.2013, registered under Sections 392 and 120-B of the Indian Penal Code, 1860, at Police Station Mohana, District Sonapat, wherein, while granting bail to the petitioner, learned Additional Sessions Judge directed the petitioner to deposit a Fixed Deposit Receipt (FDR) in the sum of ₹2,00,000/- as a condition for bail.

Subsequently, an application dated 24.01.2025 was filed by the petitioner for removal of the condition requiring deposit of the FDR, which was dismissed by the learned Additional Sessions Judge, Sonapat, vide order dated 17.02.2025.

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2. Learned counsel for the petitioner submits that the condition requiring the deposit of an FDR in the amount of ₹2,00,000/- is causing undue hardship to the petitioner. Despite bail having been granted more than ten months ago, the petitioner remains in custody due to his poor financial condition and inability to comply with the said condition. It is further submitted that there is no one to assist him financially, and even the present proceedings are being pursued by an acquaintance on his behalf. Counsel further submits that petitioner's father has expired, and apart from a widowed mother, there is no other family member to support him. In these circumstances, learned counsel prays for waiver/removal of the condition requiring deposit of the FDR of ₹2,00,000/-.

3. Notice of motion.

4. Mr. Kanwar Sanjiv Kumar, learned Additional Advocate General, Haryana, appears on behalf of the respondent/State. While opposing the prayer made by the petitioner, learned State counsel vehemently argues that the FIR in the present case was registered in the year 2013, and the petitioner was declared a proclaimed offender on 10.02.2016. Subsequently, he was arrested only on 15.04.2024, after having remained absconding for a considerable period. It is contended that if the petitioner is released without fulfilling the condition imposed by the learned Additional Sessions Judge, there is every likelihood that he may once again abscond and evade the process of law. Hence, learned State counsel prays for dismissal of the present petition.



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5. Considering the prayer of the petitioner and the serious objections raised by the learned State counsel, this Court is of the opinion that such a plea ought to have been raised before the appropriate forum at the time when the petitioner's bail application was being considered and allowed. Once the learned Additional Sessions Judge granted bail to the petitioner vide order dated 02.04.2024, the objections now raised before this Court lose significance, as those very grounds could have been considered to deny the concession of bail at that stage.

However, since bail order has already been passed with the imposition of a condition, the issue before this Court is limited to the legality and justifiability of that specific condition, i.e., whether the requirement to deposit an FDR of ₹2,00,000/- is justified in the facts and circumstances of the case.

In this context, reference may be made to the directions issued by the Hon'ble Supreme Court in "*Re: Policy Strategy for Grant of Bail*". In paragraph 10 of the said judgment, the Hon'ble Court observed as under:

"10. With a view to ameliorate the problems a number of directions are sought. We have examined the directions which we reproduce hereinafter with certain modifications:

"1) The Court which grants bail to an undertial prisoner/convict would be required to send a soft copy of the bail order by e-mail to the prisoner through the Jail Superintendent on the same day or the next day. The Jail Superintendent would be required to enter the date of grant of bail in the e-prisons software [or any other software which is being used by the Prison Department].

2) If the accused is not released within a period of 7 days from the date of grant of bail, it would be the duty of the Superintendent of Jail to inform the Secretary, DLSA who may depute para legal



volunteer or jail visiting advocate to interact with the prisoner and assist the prisoner in all ways possible for his release.

3) NIC would make attempts to create necessary fields in the e-prison software so that the date of grant of bail and date of release are entered by the Prison Department and in case the prisoner is not released within 7 days, then an automatic email can be sent to the Secretary, DLSA.

4) The Secretary, DLSA with a view to find out the economic condition of the accused, may take help of the Probation Officers or the Para Legal Volunteers to prepare a report on the socio-economic conditions of the inmate which may be placed before the concerned Court with a request to relax the condition (s) of bail/surety.

5) In cases where the undertrial or convict requests that he can furnish bail bond or sureties once released, then in an appropriate case, the Court may consider granting temporary bail for a specified period to the accused so that he can furnish bail bond or sureties.

6) If the bail bonds are not furnished within one month from the date of grant bail, the concerned Court may suo moto take up the case and consider whether the conditions of bail require modification/relaxation.

7) One of the reasons which delays the release of the accused/ convict is the insistence upon local surety. It is suggested that in such cases, the courts may not impose the condition of local surety."

6. Notably, Observation No. 6 of the Hon'ble Supreme Court's judgment in "*Re: Policy Strategy for Grant of Bail*" provides that if an accused is unable to secure release from custody within a period of one month from the date of the bail order, the concerned Court may, suo motu, take up the matter and consider whether the conditions imposed in the bail order warrant modification or relaxation.

7. In the present case, the bail order was passed nearly ten months ago, yet the petitioner remains in custody solely due to his inability to comply with the condition requiring the deposit of an FDR of

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₹2,00,000/-. The reasons for non-compliance have been duly stated in the present petition and have also been addressed during the hearing.

8. In light of the foregoing and considering the prayer made in the instant petition, the condition requiring the deposit of an FDR in the amount of ₹2,00,000/- is hereby modified/relaxed.

9. In other words, the condition imposed in the original bail order is hereby substituted, and the petitioner shall now be entitled to be released on bail subject to furnishing of surety and personal bonds in the minimum amount as the concerned Court may deem just and appropriate to impose as a condition for his release on bail.

Accordingly, the present petition is allowed.

(SANJAY VASHISTH)
JUDGE

May 21, 2025
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Whether Speaking/Reasoned: **YES/NO**
Whether Reportable: **YES/NO**