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

Sr. No.256

CRM-M-45899-2022 (O&M)

Date of decision : 6.8.2025

Usha Kaushik and another

..... Petitioners

VERSUS

State of Haryana and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Ajay Ghangas, Advocate for the petitioners.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. K.P. Singh, Advocate for respondent No.2.

KIRTI SINGH, J. (Oral)

The instant petition under Section 482 Cr.P.C. has been filed for modification of order dated 17.9.2022 passed by the learned Sessions Judge, Faridabad vide which onerous condition has been imposed upon the petitioners to deposit a sum of Rs.25 lakhs before the learned trial Magistrate while granting anticipatory bail to the petitioners in case FIR No.268 dated 24.7.2025, under Sections 498-A, 323, 406, 506, 509, 354, 420 and 34 IPC, registered at Police Station Sarai Khawaja, Faridabad, failing which the anticipatory bail shall stand dismissed and for setting aside the above mentioned condition of depositing of Rs.25 lakhs before the learned trial Magistrate.

2. Learned counsel for the petitioners while giving a brief background of the case in hand submits that the aforesaid FIR, which was registered by the complainant-respondent No.2 against her husband, the

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present petitioners (mother in law and father in law of respondent No.2) and other family members, stems from temperamental differences between respondent No.2 and her husband, whose marriage was solemnized 10.12.2016. The learned trial Court, after application of judicial mind, deemed it a fit case for granting the concession of anticipatory bail to the petitioners vide order dated 17.9.2022, by observing that it was matrimonial discord between husband and wife that led to the registration of the FIR, and that the petitioners were not required for custodial interrogation. It was also recorded therein that whether or not the dowry articles are in the possession of the petitioners, was a matter of fact which would be decided in due course of the trial. Yet, the learned trial Court, proceeded to impose an arbitrary condition of deposit of Rs.25 lakhs, which would then be disbursed to the party in whose favour the litigation gets decided. Learned counsel submits that the trial Court, by subjecting the petitioners to such a condition, put a cost on the liberty of the petitioners, especially so in absence of any direct evidence pointing towards their complicity vide order dated 17.9.2022. Reliance is placed upon the judgments passed by the Hon'ble Supreme Court in ***Dilip Singh Vs. State of Madhya Pradesh and another, {2021 (1) RCR (Criminal) 585}; Sumit Mehta Vs. State of NCT of Delhi {2013 (4) RCR (Criminal) 416}; Munish Bhasin and others Vs. Govt. of NCT of Delhi and another, {2009 (2) RCR (Criminal) 247}; U. Palaniappan Vs. Sub Inspector of Police {2005 (8) Supreme 761}; and Amarjit Singh Vs. State of NCT of Delhi, {20022 (2) RCR (Criminal) 543}***. Further reliance is also placed upon a judgment of this Court dated 21.8.2024 passed in ***CRM-M-40152-2024*** titled as ***Smt. Suman Vs. State of Haryana.***

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3. *Per contra*, learned counsel for respondent No.2 as also learned State counsel have opposed the present petition. They submit that the condition of deposit of Rs.25 lakh upon the petitioners has rightly been imposed and there is no infirmity in the order dated 17.9.2022 passed by the learned Sessions Judge, Faridabad.

4. Heard.

5. Before adjudicating the matter, it would be apposite to discuss the settled legal position with respect to imposition of conditions while granting the concession of bail.

6. In the case of ***Munish Bhasin and Others Vs. State (Government of NCT of Delhi) and Another (2009) 4 SCC 45***, the Hon'ble Supreme Court while observing that the conditions imposed while granting anticipatory bail in a case of domestic violence were onerous, held that harsh and excessive conditions must not be imposed while granting bail. The relevant observations recorded therein read thus:-

“10. It is well settled that while exercising discretion to release an accused under Section 438 of the Code neither the High Court nor the Sessions Court would be justified in imposing freakish conditions. There is no manner of doubt that the court having regard to the facts and circumstances of the case can impose necessary, just and efficacious conditions while enlarging an accused on bail under Section 438 of the Code. However, the accused cannot be subjected to any irrelevant condition at all.

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12. While imposing conditions on an accused who approaches the court under Section 438 of the Code, the court should be extremely chary in imposing conditions and should not transgress its jurisdiction or power by imposing the conditions which are not called

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for at all. There is no manner of doubt that the conditions to be imposed under Section 438 of the Code cannot be harsh, onerous or excessive so as to frustrate the very object of grant of anticipatory bail under Section 438 of the Code.”

7. Likewise, in the case of ***Sanjay Chandra Vs. Central Bureau of Investigation (2012) 1 SCC 40***, it was observed thus:-

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his 4 trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

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23. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.

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25. The provisions of CrPC confer discretionary jurisdiction on criminal courts to grant bail to the accused pending trial or in appeal against convictions; since the jurisdiction is discretionary, it has to be exercised with great care and caution by balancing the valuable right of liberty of an individual and the interest of the society in general. In our

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view, the reasoning adopted by the learned District Judge, which is affirmed by the High Court, in our opinion, is a denial of the whole basis of our system of law and normal rule of bail system. It transcends respect for the requirement that a man shall be considered innocent until he is found guilty. If such power is recognised, then it may lead to chaotic situation and would jeopardise the personal liberty of an individual.

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27. This Court, time and again, has stated that bail is the rule and committal to jail an exception. It has also observed that 5 refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution.”

8. In similar vein, the Hon’ble Supreme Court in ***Sandeep Jain Vs. National Capital Territory of Delhi (2000) 2 SCC 66***, while hearing a bail application, held that conditions for grant of bail cannot become so onerous that their existence itself is tantamount to refusal of bail. Relevant portion reads as under:

“We are unable to appreciate even the first order passed by the Metropolitan Magistrate imposing the onerous condition that an accused at the FIR stage should pay a huge sum of Rs 2 lakhs to be set at liberty. If he had paid it is a different matter. But the fact that he was not able to pay that amount and in default thereof he is to languish in jail for more than 10 months now, is sufficient indication that he was unable to make up the amount. Can he be detained in custody endlessly for his inability to pay the amount in the range of Rs 2 lakhs? If the cheques issued by his surety were dishonoured, the Court could perhaps have taken it as a ground to suggest to the payee of the cheques to resort to the legal remedies provided by law. Similarly if the Court was dissatisfied with the conduct of the surety as for his failure to raise funds for honouring the

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cheques issued by him, the Court could have directed the appellant to substitute him with another surety. But to keep him in prison for such a long period, that too in a case where bail would normally be granted for the offences alleged, is not only hard but improper. It must be remembered that the Court has not even come to the conclusion that the allegations made in the FIR are true. That can be decided only when the trial concludes, if the case is charge-sheeted by the police.”

9. Recently, these observations were also reiterated in the judgment of the Hon’ble Supreme Court in ***Dilip Singh v. State of Madhya Pradesh and anr. 2021(1) Law Herald (SC) 657***, by holding thus:-

“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 to 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 release the dues of the complainant, and that too, without any trial.”

10. Reverting to the case in hand, the petitioners, being the parents in law of the complaint-respondent No.2 were granted the concession of

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anticipatory bail, in an FIR lodged pursuant to matrimonial discord between their son and daughter in law, vide order dated 17.9.2022 by the learned Sessions Judge, Faridabad, who imposed a condition upon them to deposit a sum of Rs.25 lakhs as fixed deposit for a period of five years in the name of JMIC, Faridabad, in lieu of the dowry articles purportedly not recovered from their possession. This Court is of the opinion that imposition of such a harsh condition has, in practical manifestation, the effect equivalent to refusal to grant the bail, since it was categorically recorded by the learned trial Court in the order granting anticipatory bail, that in case the said condition was not complied with by the petitioners within 15 days from the date of the order, it would lead to cancellation of their bail.

11. The facts and circumstances of this case, when viewed in light of the judicial pronouncements discussed hereinabove, this Court deems it appropriate to waive off the condition of deposit of Rs.25 lakhs as imposed upon the petitioners while granting them anticipatory bail vide order dated 17.09.2022.

12. Resultantly, the present petition is allowed and impugned order dated 17.9.2022 passed by the learned Sessions Judge, Faridabad is modified to the extent that the condition imposed in para No.7 (iv) stands waived off. The bail granted to the petitioners therein be read as being without the condition mentioned in para No.7 (iv) of the said order.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

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Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No