
(2022) 12 P&H CK 0067

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous Petition (M) No. 55209 Of 2022

Jagtar Singh @ Bittu

APPELLANT

Vs

State Of Punjab

RESPONDENT

Date of Decision: Dec. 20, 2022

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 437A, 438(2), 439, 446
- Narcotic Drugs And Psychotropic Substances Act, 1985 - Section 2(via), 2(xxiii), 37

Hon'ble Judges: Anoop Chitkara, J

Bench: Single Bench

Advocate: P.S. Sekhon, Virat Rana

Final Decision: Allowed

Judgement

FIR No., Dated, Police Station, Sections

106, 22.08.2022, "City Dhuri, District

Sangrur", "30, 34 IPC and Sections

21, 29 and 31 of NDPS

Act

14. 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, any",,,

nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned 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. Said",,,

fixed deposit may be made from any of the banks where the stake of the State is more than 50% or any of the well-established and stable private,,,

sector banks. The fixed deposit need not necessarily be made from the petitioner's account.,,,

(c). Such court shall have a lien over the deposit 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). It shall be the total discretion of the petitioner to choose between surety bond and fixed deposit. It shall also be open for the petitioner to apply to,,,

the Investigator or the concerned court to substitute the fixed deposit with surety bonds and vice-versa.,,,

(e). On the reverse page of personal bond, the petitioner shall mention her/his permanent address along with the phone number, preferably that",,,

number which is linked with the AADHAR, and e-mail (if any). In case of any change in the above particulars, the petitioner shall immediately and",,,

not later than 30 days from such modification, intimate about the change to the concerned police station and the concerned court.",,,

(f). 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 also of this bail order.",,,

15. 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.",,,

16. Within fifteen days of release from prison, the petitioner shall procure a smartphone and inform its IMEI number and other details to the SHO/I.O.",,,

of the Police station mentioned above. The petitioner shall always keep the phone location/GPS on the "ON" mode. Whenever the Investigating",,,

officer asks to share the location, the petitioner shall immediately do so. The petitioner shall neither clear the location history, WhatsApp chats, call",,,

logs nor format the phone without permission of the concerned SHO/I.O. This condition shall continue till the completion of the trial or closure of case",,,

whichever is earlier. If the petitioners fail to comply with this condition, then on this ground alone. In that case, the bail might be canceled, and the",,,

complainant may file any such application for the cancellation of bail, and State shall file the said application.",,,

17. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms",,,

ammunition, if any, along with the arms license to the concerned authority within fifteen days from release from prison and inform the Investigator",,,

about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in",,,

this case, provided otherwise permissible in the concerned rules.",,,

18. 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.,,,

19. The conditions mentioned above imposed by this court are to endeavour that the accused does not repeat the offence and to ensure the safety of,,,

the society. In Mohammed Zubair v. State of NCT of Delhi, 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."

20. 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.,,,

21. If the petitioner finds bond amount beyond social and financial reach, it may be brought to the notice of this Court for appropriate reduction." ,,,

Further, 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." ,,,

22. This order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation as per law." ,,,

23. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offence in this FIR, and if the",,,

new section prescribes maximum sentence which is not greater than the sections mentioned above, then this bail order shall be deemed to have also",,,

been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence",,,

prescribed in the sections mentioned above, then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of",,,

seven days providing an opportunity to avail the remedies available in law.,,,

24. 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.,,,

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

26. 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.",,,