



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

281

**CRM-M-54165-2024 (O&M)  
Date of decision: 18.01.2025**

**Sagar****...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Kanwaljeet Singh, Advocate  
for the petitioner.

Ms. Swati Batra, Deputy Advocate General, Punjab.

**MANISHA BATRA, J. (Oral)**

1. Prayer in this petition, filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for setting aside the condition imposed by the learned trial Court in the order dated 03.04.2024, passed by the learned trial Court in case arising out of FIR No. 157 dated 17.06.2021, registered under Section 22(b) of the NDPS Act, 1985 and Section 379 of IPC at Police Station Phillaur, District Jalandhar (Rural), whereby, while granting bail to the petitioner, it was directed that at the time of furnishing fresh surety bonds, he would produce his previous surety in the Court so that notice under Section 446 of Cr.P.C. could be served upon him.

2. Learned counsel for the petitioner has submitted that the petitioner has been facing trial in the aforementioned FIR. Initially, the petitioner was granted concession of bail, vide order dated 16.12.2021. However, he absented himself from the Court proceedings, consequent to which, his bail was cancelled and ultimately, he was declared a proclaimed offender on 24.01.2023. Later on, he was arrested. It is further submitted that the reason for non-appearance of the

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petitioner before the Court was that while on bail, he was arrested in one more case bearing FIR No. 41 dated 18.05.2023 and was behind the bars. After re-arrest, the petitioner again moved an application for grant of regular bail, which was allowed by the learned trial Court, vide order dated 03.04.2024 but a condition has been imposed upon him that at the time of furnishing fresh surety bonds, he would produce his previous surety in the Court so that notice under Section 446 of Cr.P.C. could be served upon him. It is argued that the imposition of such condition upon the petitioner is onerous and unnecessary as it is well settled law that the condition of bail should be reasonable and not arbitrary. Due to non-fulfillment of this condition, the petitioner could not come out of jail. It is, thus, argued that the present petition deserves to be allowed and the aforesaid condition is liable to be set aside.

3. Status report has been filed by the respondent-State, wherein no serious objection is raised to the prayer made by the petitioner.

4. I have heard learned counsel for the parties at considerable and have also gone through the record carefully.

5. Admittedly, the petitioner was initially granted concession of bail but due to his non-appearance before the learned trial Court, his bail was cancelled and eventually, he was declared a proclaimed offender. Later on, he was arrested. When the petitioner applied for grant of bail before the learned trial Court, his prayer was acceded to by passing the order dated 03.04.2024 but a condition of producing the previous surety at the time of furnishing bonds was imposed upon him. Due to non-fulfillment of this condition, the petitioner is stated to be still in custody. A perusal of the record shows that when the petitioner was on bail in this case, he was implicated and arrested in aforesaid FIR No. 41 and due to that reason, he could not appear before the learned trial



Court, which resulted into his being declared a proclaimed offender. Apparently, the petitioner was not in a position to make his appearance before the Court as the situations were beyond his control. The practice of grant of bail is an exercise of judicial discretion by the Court based on consideration of several factors and imposition of bail condition is also a part of such exercise, which should be based on sound judicial principles. It should not be arbitrary, mechanical or onerous, which could not be complied with by the accused as it would be like granting bail by one hand and taking it away by another hand. Rather, imposition of onerous and stringent conditions amounts to denial of bail. Obviously, the object of bail is to enable the accused to send him out of jail with an assurance to return to the Court to put up an effective defence. Reference can be made to the authority cited as *Guddan @ Roop Narayan vs. State of Rajasthan : 2023 (1) RCR (Criminal) 762*, wherein Hon'ble Supreme Court, while reiterating the judicial concern against fixation of excessive conditions which tantamount to refusal to grant bail, has held that onerous conditions should not be imposed upon an accused while granting bail to him.

6. In view of the discussion as made above, this Court is of the considered opinion that the aforesaid condition imposed by the trial Court upon the petitioner while granting bail is excessive and onerous and the same needs to be modified. Accordingly, the present petition is allowed. The aforesaid condition imposed by the learned trial Court in the order dated 03.04.2024 is set aside. Rest of the conditions shall remain the same.

18.01.2025

*Wasem Ansari*

(MANISHA BATRA)  
JUDGE

*Whether speaking/reasoned*

*Yes*

*Whether reportable*

*Yes*