Delhi High Court
Harpreet Singh vs State (Nct Of Delhi) on 16 August, 2004
Equivalent citations: 114 (2004) DLT 410
Author: S Agarwal
Bench: S Agarwal
JUDGMENT S.K. Agarwal, J.

1. By way of this petition under Section 482 of the Cr.P.C petitioner is seeking quashing of the condition imposed vide order dated 9.4.2003 passed by the Additional Sessions Judge granting bail to the petitioner, that he shall not leave the country without prior permission of the Court concerned in the case FIR No. 22/2003 under Sections 406/498A/116/342/34, IPC, registered at P.S. Greater Kailash-I, Delhi.

2. The petitioner, who is present in person, submits that he was married to Smt. Usha Maniktala, on whose complaint above case was registered. Allegations against the petitioner are false. The petitioner has joined investigation and paid Rs. 12,00,000/- towards her claim for the unrecovered articles of Stridhan, without prejudice to his defense on merits. It is pleaded that the petitioner is an exporter and has to travel abroad, in connection of his business, at very short note. Learned Court, while granting anticipatory bail vide order dated 9.4.2003 imposed a condition that the petitioner will not leave the country without permission of the Court. It is pleaded that seeking permission involves lot of time for procedural formalities and expenses. Learned Counsel for the petitioner submits that petitioner has fixed roots in the society, and his mother resides in India and she is the owner of House No. 536, New Friends Colony, New Delhi; that petitioner is owner of the factory at Okhla; that they are ready and willing to file affidavit and give any further undertaking, as may be deemed fit and prays that the condition be waived.

3. Learned Additional Public Prosecutor submits that the matter is still pending investigation and the petitioner has been given right to seek permission whenever he wants to travel abroad and, no case of waiver of the condition is made out.

4. Learned Counsel for the complainant referred to Section 438 of the Cr.P.C. and argues that suitable condition can be imposed, while granting anticipatory bail. There are serious allegations of torture and harassment against the petitioner and such condition has been rightly imposed. She argues that the petitioner has not filed documents of his business; that complainant's parents are residing in U.K. and that petitioner has been going abroad for holidays and not for any business. Learned Counsel further argues that similar condition was imposed on petitioner's sister Smt. Neelu Kohli and mother Smt. Sharanjit Kaur, while granting them bail. Their application for revocation of this condition has come for hearing before Hon'ble Mr. Justice B.N. Chaturvedi, and the same was dismissed as withdrawn on 4.2.2004. Learned Counsel further argues that the property S-80 at Okhla Industrial Area is not registered in the name of the petitioner; he claims to have purchased this property on the basis of power of attorney etc. which has no value in law, therefore, undertaking by the petitioner to the effect that he will not sell this property is meaningless. Learned Counsel argues that petitioner is likely to abscond in case the condition is waived. Reliance is placed on the decision of this Court in Gopichand P. Hinduja and Ors. v. Central Bureau of Investigation, II (2001)

CCR 410-91 (2001) DLT450; Sarkar Sahev v. State, ; State Through CBI v. Chandraswamy, .

5. I have considered the rival contentions. There cannot be any dispute that at the time of granting bail reasonable conditions can always be imposed, but it is obligatory for the Court to consider the nature of the obligation and other attending circumstances. Here it is a matrimonial dispute, petitioner was granted bail on 9.4.203; the case is pending investigations for about one and half years and the challan has not been filed. Without prejudice to his defense petitioner has already deposited Rs. 12.0 lacs towards the complainant's claim for unrecovered articles of Istridhan. Petitioner has filed an affidavit stating that he is running a garment manufacturing unit at S-80 at Okhla Industrial Area, Phase-II, Delhi; the premises is owned by him; the mother (Smt. Sharanjit Kaur) of petitioner has filed an affidavit stating that the petitioner is her only son; that house No. B-536, New Friends Colony, New Delhi is owned by her. The purpose of imposing conditions at the time of granting bail is to ensure presence of the accused during investigation and during trial. Nothing has been brought on record to show that the petitioner has not participated in the investigation or has tampered with further investigation of the case.

6. In the facts and circumstances of this case, I am of the considered view that condition imposed in the bail order dated 9.4.2003 that petitioner shall not leave country without prior permission of the Court, should be waived/modified, subject to following conditions, (i) petitioner shall file an affidavit of undertaking before the Trial Court, that he shall not sell, assign or other wise dispose of the factory premises bearing No. S-80 at Okhla Industrial Area, Phase-II, Delhi, and that petitioner shall attend the Court on each and every date of hearing, unless exempted from personal appearance, by the Trial Court, and (ii) petitioner's mother (Smt. Sharanjit Kaur) shall also file an affidavit of undertaking before Trial Court to the effect that she will not dispose of property bearing No. B-536, New Friends Colony, New Delhi, pending final disposal of the case.

7. On filing of the above undertakings, before the learned Trial Court condition imposed in the bail order dated 9.4.2003, directing that the petitioner, shall not leave country, without prior permission of the Court, shall stand waived. The ratio of the decisions cited by the learned Counsel for the complainant are not applicable to the facts at hand.

8. The petition stands disposed of. dusty.