

# Law Today Live Doc. Id. 15334

**PUNJAB AND HARYANA HIGH COURT**

**Before: Jaishree Thakur, J.**

CRM-M No.22613 of 2020 (O&M)

Decided on: 04.09.2020

Mohammad Anas @ Rashid

Petitioner

Versus

State of Haryana

Respondent

**(Heard through VC)**

Present:

Mr. Saurabh Garg, Advocate for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

**Electricity Act, 2003 (No.36 of 2003), Section 136 -- Code of Criminal Procedure, 1973 (2 of 1974), Section 439, 482 -- Regular bail in 21 cases -- Onerous and impossible conditions imposed for bail – Inherent power of High Court – Exercise of – Condition imposed of furnishing Rs.50,000/- as bail bond with one local surety for the like amount in each of the 21 FIRs is certainly an onerous condition, as in effect it will mean that he will have to furnish Rs.10,50,000/- as bail bonds with a local surety for the like amount in totality -- Fit case for invoking inherent power u/s 482 Cr.P.C -- Impugned orders set aside – Petitioner shall furnish one surety in one case for a sum of Rs.2 lakhs and two sureties for a sum of Rs.2 lakhs each, which sureties, would be applicable for all 21 cases -- Petitioner, in any case, shall furnish separate personal bonds in all 21 cases -- Upon the same being furnished, the petitioner ordered to be released on bail forthwith.**

**(Para 1,8-11)**

**Cases referred:**

1. Ranjit Singh Vs State Of Haryana, CRM-M-14856-2020 decided on 21.8.2020.
2. Sreenivasulu Reddy Vs. State of Tamil Nadu VII 2000 (2) CCR 96.
3. Sandeep Jain Vs. State of Delhi (2000) SLT 368.
4. Amarjit Singh Vs. State (NCT of Delhi) 2002 (61) DRJ 67.
5. Sheikh Ayub Vs. State of Madhya Pradesh (2004) 13 SCC 457.
6. Shyam Singh Vs. State (2006) 9 SCC 169.

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**JAISHREE THAKUR J. –**

1. By this instant petition filed Section 482 Cr. P.C, the petitioner seeks to challenge the orders dated 6.7.2020, 14.07.2020 and 17.07.2020 as passed by the Trial Court/Duty Magistrate whereby he has released the petitioner on regular bail and imposed a condition of furnishing bail bond and also the surety bond of Rs.50,000/- in each case of the 21 cases, as too onerous and impossible for petitioner to satisfy.

2. In brief the facts as stated by the petitioner are that he was falsely implicated by the Police in as many as 34 cases under Section 136 of Electricity Act. In FIR No.623 dated 24.12.2018 registered at PS Thanesar Sadar Kurukshetra written information was received from one Mahinder Singh son of Dalel Singh that 20 KVA transformer has been stolen in the midnight of 09.11.2018. On inspection by Ram Rattan, JE, a report was prepared and he calculated the loss of about Rs.73,000/- and thereafter on complaint of SDO OP Division UHBVN Pipli a FIR was registered against unknown person. The petitioner was then arrayed as an accused in 34 similar cases and arrested.

3. Learned counsel for the petitioner submits that in fact the FIR was against an unknown person and he has been falsely implicated in the FIR without evidence, and that he is in fact a petty labourer doing work in Delhi for the past several years. In fact false evidence has been planted upon him. It is argued that for the lack of finding the real accused, he has been made the scapegoat and been nominated as an accused in 34 cases under Section 136 of the electricity Act, out of which he has been acquitted in 13 cases. It is argued that he has been arrested and is behind bars since 15th of January 2019 due to false implication by the police. It is argued that he has been granted bail in all the 21 cases pending against him, however, the court has directed the petitioner to furnish bail bonds of Rs.50,000/- with one surety in the like amount in every case and the petitioner being a labourer is not in a position to arrange 21 sureties for furnishing the bail bonds. It is prayed that a single surety and a single bail bond be accepted in all the 21 FIRs which are pending against him. Counsel for the petitioner relies upon judgements as rendered in **CRM-M-4651 of 2019** titled as '**Suresh Kumar Walia versus State of Haryana**' wherein bail/surety bonds to the tune of Rs. 1 lakh was treated as surety in all the 96 other FIRs pending against the said petitioner. He also relies upon a similar case in **CRM-M-2472 of 2020** titled as '**Surender Kumar versus State of Haryana**' wherein the surety bonds in one case was to be treated as a surety bond in 31 identical cases pending against the petitioner.

4. It is further argued that the bail conditions cannot be so onerous so as to make it impossible for them to be complied with as it would then tantamount to denying bail itself. It is submitted that the maximum penalty that can be imposed is imprisonment for 3 years under the said offence and he has already under gone incarceration for 1 year 8 months. It is also submitted that certain recovery of copper wires has been made.

5. Per contra, Ms. Deepshikha Chauhan, learned counsel on behalf of the respondent-State would contend that the petitioner has been nominated as an accused in 21 FIRs for the theft of electricity and therefore, there is no infirmity in the order passed by the duty Magistrate imposing bail conditions of surety of Rs.50,000/- and one local surety of like amount in each of the said FIRs.

6. I have heard the counsel for the parties and with their assistance have gone through the pleadings of the case, and the case law as cited.

7. This court is not going into the question as to whether the petitioner has been falsely implicated in the 21 FIRs pending against him. The challenge in this petition is to the conditions as imposed by the trial court/Duty Magistrate while allowing regular bail to the petitioner who has been in custody since 15/01/2019.

8. Time and time again, the courts have held that the conditions of bail should not be so onerous, so as to effectively deny bail to the petitioner. In a recent case of **Ranjit Singh Vs State Of Haryana CRM-M-14856-2020 decided on 21.8.2020**, the High Court had an occasion to deal with the various case laws as cited regarding the onerous conditions imposed by the courts while granting bail. Judgements as rendered in **Sreenivasulu Reddy Vs. State of Tamil Nadu VII 2000 (2) CCR 96**, **Sandeep Jain Vs. State of Delhi (2000) SLT 368**, **Amarjit Singh Vs. State (NCT of Delhi) 2002 (61) DRJ 67**, **Sheikh Ayub Vs. State of Madhya Pradesh (2004) 13 SCC 457**, **Shyam Singh Vs. State (2006) 9 SCC 169** were referred to while dealing with a matter, wherein a challenge had been made to the onerous condition imposed by the trial court while granting bail. It was held as under :

*“9. Thus, keeping in view the above factors, this Court is of the pinion that since the maximum punishment which can be awarded is upto 5 years and the petitioner has almost undergone a period of one year having been arrested on 06.09.2019, the onerous conditions would thus violate Article 21 of the Constitution of India as the liberty of the petitioner is being deprived. It is settled principle that bail is the rule and jail is the exception and mere seriousness of the charge is not a factor to be taken into account while denying the valuable right of liberty. The basic principle being the man is innocent till he is found guilty. The factum of the investigation being complete and enquiry having been completed and the relevant documents being in possession of the prosecution, the petitioner thus cannot be detained during the trial only on account of the fact that a bail order in the form of a recovery proceedings has been passed against him to pay the outstanding worth almost Rs.2 crores along with interest.”*

9. In the case in hand the investigation is complete and it would be a matter of trial as to whether the petitioner will be guilty under the said FIRs registered under Section 136 of the Electricity Act. He is not in a position to either influence the official witness or tamper with the record which is in the possession of the respondent State or the Court. The condition as imposed of furnishing Rs.50,000/- as bail bond with one local surety for the like amount in each of the 21 FIRs is pending against him, is certainly an onerous condition, as in effect it will mean that he will have to furnish Rs.10,50,000/- as bail bonds with a local surety for the like amount in totality.

10. Consequently, in view of the aforesaid peculiar circumstances, this Court finds it to be a fit case for invoking inherent power under Section 482 Cr.P.C. The present petition is accepted and the impugned orders are set aside.

11. It is ordered that the petitioner shall furnish one surety in one case for a sum of Rs.2 lakhs and two sureties for a sum of Rs.2 lakhs each, which sureties, would be applicable for all 21 cases. The surety bond to mention that in case of any default on the part of the petitioner, the surety bond will be forfeited. The petitioner, in any case, shall furnish separate personal bonds in all 21 cases. Upon the same being furnished, the petitioner be released on bail forthwith.

**Petition allowed.**

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