

205 IOIN-CRM-34373-2024 IN CRM-34373-2024  
IN CRM-M-52940-2021

**SUMIT AWASTHI V/S STATE OF HARYANA**

Present: None for the applicant/petitioner.

Mr. P.P. Chahar, Sr. DAG, Haryana.

Mr. Arjun Shukla, Advocate and  
Mr. Himanshu Mishra, Advocate  
for respondent No.2/complainant.

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Mr. Arjun Shukla, Advocate, has put in appearance on behalf of complainant and filed the memorandum of appearance, which is taken on record.

Status report by way of an affidavit of Sh.Rajat Gulia, HPS, Deputy Superintendent of Police, Ambala Cantt, District Ambala on behalf of respondent/State has been filed in the Court today and the same is taken on record.

The accused-Sumit Awasthi, filed an application cast under Section 439 of the Cr.P.C., before this Court, whereby relief is claimed rather qua the granting of concession of regular bail to him in respect of FIR No.274, constituting therein offences under sections 406 and 420 of Indian Penal Code 1860, registered with Police Station Mahesh Nagar, District Ambala. Through an order made on the said application on 20.07.2022, though this Court accorded the espoused indulgence of regular bail to the accused supra, but the said order was a conditional order, is as much as, the learned trial Judge concerned, was directed to make the release orders, but only subject to the compliance being made to conditions as become setforth in paragraph 4 of the said order, paragraph whereof become extracted hereinafter.

*“Further at this stage, the learned counsel for the petitioner submits, that the present bail petitioner is ready, and, willing to deposit*

*within a period of three months from today, a sum of Rs.20 lacs, in the establishment of the learned trial Judge concerned. However, he submits the disbursement of the above sums to the concerned, may become ordered to be regulated by the outcome of the trial, as, may become entered into by the learned trial Judge concerned. Accepting the afore made submission, and, for not prolonging the already prolonged judicial incarceration of the present bail petitioner. Hence, the instant petition is allowed, and, the bail petitioner-applicant is ordered to be released from judicial custody. However, the granting of bail to the bail petitioner-applicant, is subject to his furnishing personal, and, surety bonds in the sum of Rs.50,000/- each, before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, and, also subject to his not tampering with prosecution evidence, and, his not influencing prosecution witnesses, and, besides also his appearing before the trial Court concerned, as and when directed to make his personal appearance unless validly exempted. Also subject to his, as, stated before this Court, by the learned counsel for the petitioner, on instructions given to him, by the present bail petitioner, that he shall positively within a period of three months, deposit a sum of Rs.20 lacs, in the establishment of the learned trial Court concerned, but disbursement thereof to the concerned, shall be regulated by the outcome of the trial, as become entered into by the learned trial Judge concerned.”*

It appears that the learned JMIC Ambala has proceeded to make the release orders, but only after accepting the personal and surety bonds as became furnished before her by the accused supra, but remaining unmindful of the factum, that the further condition as setforth therein, relating to the accused depositing within a period of 3 months from the date of the order (supra), a sum of Rs.20 lakhs in the establishment of the learned trial Judge concnered, thus, was also the pre-requisite compliable condition for the makings of release warrants. Furthermore, it appears that the said release warrants remained unexecuted, as it is detailed in the compliance report furnished today by the State of Haryana, that the accused supra is suffering incarceration in multiple FIRs.

Therefore, the release warrants, as made by the JMIC Ambala on 25.09.2024, in purported compliance to the orders supra passed by this Court, thus remained not effectively galvanized.

Be that as it may, it is the complete unmindfulness on the part of the JMIC, Ambala qua the necessity of compliance being made to the imperative condition as carried in the verdict supra, that pains the judicial conscience of this Court. Therefore, irrespective of the fact that the said order remains unchallenged, whereas, it is required to be challenged at the instance of the State of Haryana, yet, the judicial conscience of this Court is shocked about the manner in which the release warrants have been drawn by the JMIC, Ambala.

In consequence, an explanation is elicited from the JMIC, Ambala in respect of her unmindfulness qua supra condition order becoming made in the verdict drawn by this Court upon CRM-52940-2021. The said explanation be placed on record. In the meantime, a last opportunity is granted to the accused supra to ensure compliance to the order made by this Court on dated 06.09.2024. Furthermore, the operation of the release order shall remain suo moto stayed.

List on 13.12.2024.

**(SURESHWAR THAKUR)**  
**JUDGE**

**November 22, 2024**

*Mahima*