

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Crl. Misc. No. M-2853 of 2015
Date of decision : 27.03.2015**

Gaurav Kakkar

..... Petitioner

versus

State of Haryana

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Rahul Deswal, Advocate
for petitioner.**

Mr. S.S. Pannu, DAG Haryana.

ANITA CHAUDHRY, J.

The petitioner is seeking anticipatory bail in FIR No. 33 dated 05.12.2014, registered under Sections 7 and 13 of the Prevention of Corruption Act by the Police Station State Vigilance Bureau, Rohtak. The application moved by the petitioner seeking anticipatory bail was rejected by the Sessions Judge, Jhajjar.

The petitioner is a SDO with Pollution Control Board, Bahadurgarh. The complainant had approached the Pollution Control Office and had submitted a file. A Clerk in the office demanded money for passing the sample. Initially, a sum of Rs.2000/- was paid to one Shri Bhagwan. According to the arrangement, balance amount was to be paid to the officer who was to visit the spot. The allegations are that on 04.12.2014 Gaurav Kakkar SDO along with his driver went to the factory to take the sample. A sum of Rs.19000/- was allegedly paid to him. The remaining Rs.6000/- were to be paid subsequently. That amount was paid to a tea vendor.

At the motion hearing, counsel for the petitioner had submitted that Inspector Sat Parkash had sought some information, which was not provided by the petitioner nor he was legally bound to provide therefore, the

Vigilance Officer was aggrieved. It was urged that recovery was shown to have been effected from some tea vendor.

Interim bail was allowed to the petitioner and notice was issued.

Heard.

Counsel for the petitioner contends that no complaint was given on 04.12.2014 and it was given on 05.12.2014 and if the demand had been made much earlier, there was no reason why the complainant remained silent and the petitioner had filled the proforma for taking the sample and had sent the same after his visit on 04.12.2014 therefore, the question of giving a favourable report and demanding any money would not arise. Counsel submits that the Vigilance Officer was aggrieved as the petitioner had not responded to the letters addressed to the Pollution Board. Reference was made to Annexures P-5 and P-6.

Counsel for the petitioner further contends that no recovery is to be effected from the petitioner and he should be allowed anticipatory bail. Reliance was placed on **Joginder Kumar Vs. State of U.P. 1994(2) RCR (Crl.) 601** and **Sham Lal Vs. State of Punjab 2002(1) CLJ (Crl.) 224**.

The State counsel submits that custodial interrogation would be necessary and though the petitioner had joined the investigation, but it has not yielded any result and recovery has to be made. He submits on instructions from Inspector Kartar Singh, State Vigilance Bureau that there is a CCTV footage which shows that the petitioner was accepting the amount on the day of his visit and the CD is available with him even today.

The State counsel further submits that tea vendor who had taken part of bribe money has made a statement that the money was meant for the petitioner.

The allegations against the petitioner are indeed serious. The visit to the factory on 04.12.2014 is not disputed. The version given by the petitioner is that he had gone to lift samples. The complainant had alleged

that demand had been made earlier and part of the money had already been passed. On the day of the visit, a sum of Rs.19000/- was paid to the petitioner, they say, has been captured in the CCTV footage, available with the investigators. The State insists for custodial interrogation. The police is within its right to fully investigate into the allegations made against the petitioner. Though, an interim order was passed in favour of the petitioner but Court can always review its decision in view of subsequent facts circumstances and new material. The petitioner had alleged that he was being framed and was only doing his duty but the facts disclosed by the State are that the petitioner is seen in the CCTV footage accepting money. In my view considering the circumstances of the case, it is not a fit case where the concession of anticipatory bail should be given to the petitioner. The petition is dismissed.

March 27, 2015
Jiten

(ANITA CHAUDHRY)
JUDGE