

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 206

Criminal Miscellaneous No.M-916 of 2015

Date of Decision: *May 07, 2015*

Anil Kumar

..... PETITIONER

VERSUS

State of Haryana

..... RESPONDENT

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

. . .

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

. . .

PRESENT: - Mr. K.S. Dhaliwal, Advocate, for the petitioner.

Mr. Charanjit Singh Bakhshi, Additional Advocate
General, Haryana.

. . .

Jaspal Singh, J (Oral)

1. This is a petition under Section 438 Cr.P.C., preferred by Anil Kumar, seeking pre-arrest bail, feeling apprehension of his arrest in case FIR No.32 dated December 24, 2014 under Sections 7/13 of Prevention of Corruption Act, 1988, registered at Police Station SVB, Gurgaon.

2. Allegations in brief against petitioner are that he, while posted as Junior Engineer, demanded a sum of ₹ 75,000/- from

complainant through his subordinate staff, to hush off the matter with regard to raising of illegal commercial construction in residential area. The matter was reported and a sum of ₹ 75,000/- i.e. tainted currency notes were recovered from possession of co-accused of petitioner.

3. Contention of learned counsel for the petitioner is that petitioner, on December 17, 2014, while discharging his official duties, visited the premises of complainant where illegal commercial construction was being raised in the residential area and submitted his report to the officers of Municipal Corporation, Ballabgarh Zone, Faridabad, which was received by Assistant Engineer (Buildings). In pursuance of said report, notice dated December 18, 2014 was issued to complainant by the Joint Commissioner, Municipal Corporation, Faridabad, vide which, he was given three days' time to explain his position. On December 24, 2014, petitioner applied for leave upto December 28, 2014 including half day leave on December 24, 2014 which was duly permitted/allowed by AE (B) and Joint Commissioner (B) as is evident from letter, Annexure P-3. Moreover, recovery of alleged tainted currency notes has already been effected from the possession of co-accused of petitioner. After submission of report to Assistant Engineer (Buildings) of Municipal Corporation, Faridabad, petitioner was left with no occasion to raise demand of illegal gratification to provide any sort of assistance to complainant to continue with raising of commercial construction in residential area. Co-accused

of petitioner has/have already been arrested by investigating agency. Petitioner has already joined investigation. It is a matter of evidence if petitioner played any role or raised/accepted any illegal gratification.

4. Taking into consideration various contentions raised by learned counsel for the petitioner, referred to above, but without expressing any opinion on merits of the case, instant petition is allowed. In the event of arrest of petitioner, he is ordered to be released on bail by the Arresting Officer and in case of his appearance before the Trial Court/ Duty Magistrate at his/her satisfaction but he shall continue to abide by the conditions enshrined in Section 438(2) Cr.P.C. as well as any other condition imposed by the Trial Court/ Duty Magistrate, at the time of his release on bail.

5. While parting with order, it is made explicit that anything observed in this order shall have no bearing on the merits of the main case and observation, if any made, shall remain limited to the disposal of this petition.

May 07, 2015
avin

(Jaspal Singh)
Judge