

**Sr. No. 223
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM No. M-318 of 2016
Date of Decision: 27.01.2016**

Babu Lal

...Petitioner

Versus

State of Haryana

... Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Pankaj Kundra, Advocate,
for the petitioner.

Mr. Rajiv Doon, AAG, Haryana.

TEJINDER SINGH DHINDSA. J (ORAL)

This order shall dispose of the present petition filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioner pending trial in case FIR No.64 dated 14.10.2015, under Sections 7, 13 of Prevention of Corruption Act, registered at Police Station Vigilance Bureau Rohtak.

The process of law was set in motion on the statement of Sandeep Rohil. Complainant has stated that his maternal grandfather had expired in the year 2012. Property in the name of the grandfather was to be transferred in the name of his other maternal relatives by way of a mutation of inheritance. In this regard, complainant had met the present petitioner who was holding the post of Halqa Patwari. At that point of time, a demand of illegal gratification of Rs.10,000/- was made. This, in a nutshell, is the backdrop leading to the registration of the FIR as also of the arrest of the petitioner on 14.10.2015.

Investigation in the case has been completed. Challan was presented and even charges have been framed. On the last date of hearing i.e. 13.01.2016, the matter was adjourned to await the deposition of the complainant Sandeep Rohil.

During the course of arguments today, counsel for the petitioner has adverted to the statements recorded of the complainant firstly under Section 161 Cr.P.C. on 14.10.2015, secondly under Section 164 Cr.P.C. in the Court of Civil Judge, Junior Division-cum-JMIC on 15.10.2015 and finally deposition of the complainant as PW-2 on 14.01.2016 before the trial Court.

It would be apposite to take note that in the statement recorded under Section 164 Cr.P.C. complainant stated that he had gone to the office of the accused Patwari/present petitioner and told him that he had brought the requisite amount of money (fee). Upon which the accused took out the documents of the complainant from his cupboard and then took the complainant on his motorcycle to the market and upon reaching Shiv Chowk accused/petitioner demanded money in front of Natraja Restaurant. At that point of time the Vigilance team raided and nabbed the accused while accepting money of bribe.

In contradiction as per deposition as PW-2 before the trial Court recorded on 14.01.2016 complainant has deposed that upon reaching the office of the accused, the Patwari had informed him that he was busy and asked him to reach Beri Chowk. Thereupon complainant states that he returned to the office of the BDPO where the vigilance officials were present and narrated the entire story.

Thereafter complainant along with shadow witness reached the Beri Chowk and after some time accused also reached there on his motorcycle and called the complainant inside Natraja Restaurant and it is thereupon that the raiding party was given a signal by the shadow witness and was nabbed while accepting the bribe.

Suffice it to observe that it is not only a case of improvement in version but two contradictory statements having been suffered by the complainant. This Court would say no more.

Petitioner has been in custody since 14.10.2015. Trial is underway and complainant already stands examined.

In view of the statements recorded by the complainant under Section 164 Cr.P.C. as well as his deposition as PW-2 before the trial Court and the contents of which have not been disputed by the learned State counsel, the offence under the provisions of Prevention of Corruption Act as to whether made out would be a moot point.

In an overview of the matter, petitioner is held entitled to the benefit of bail. Petitioner be enlarged on bail subject to satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Jhajjar.

It is, however, made clear that observations contained in this order are confined as regards considering the prayer of the petitioner for grant of bail and would have no bearing on the merits of the case.

Disposed of.

27.01.2016

vandana

(TEJINDER SINGH DHINDSA)
JUDGE