

Sr. No.205

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM No. M-44167 of 2016 (O&M)

Date of Decision:19.01.2017

Yagay Datt

... Petitioner

Versus

State of Haryana

... Respondent

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

Present:- Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Ashwani Markenday, Advocate,
for the petitioner.

Mr. C.S.Bakhshi, Additional A.G., Haryana.

TEJINDER SINGH DHINDSA, J.(ORAL)

This order shall dispose of the instant petition filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioner in case FIR No.54 dated 26.11.2016, under Sections 7/13 of Prevention of Corruption Act, registered at Police Station State Vigilance Bureau, Hisar.

While issuing notice of motion, the following order was passed by this Court on 09.12.2016:-

“Petitioner is posted as District Education Officer at Fatehabad. He apprehends arrest on the basis of recovery of Rs.10,000/- having been effected from Raj Kumar, a clerk of his office. The said clerk had rang up the petitioner after the recovery. The conversation between the petitioner and Raj Kumar has been made basis for arraying the petitioner as accused along with another accused who was caught red handed accepting the illegal gratification.

Counsel for the petitioner submits that the allegations of the complainant in the FIR are against Raj Kumar clerk only who had allegedly demanded a sum of

Rs.50,000/- as bribe in view of returning the record of the school and preparation of correct report.

Without expression of any opinion regarding the culpability of the petitioner, it is observed that as the marriage of the son of the petitioner is fixed on 13th/14th December, 2016, as is apparent from the Invitation Card Annexure P6, the petitioner may be asked to join investigation to facilitate fair investigation.

Notice to the Advocate General, Haryana, for 19.1.2017.

Meanwhile, an interim direction is issued that the petitioner will join investigation on 10.12.2016 and 24.12.2016 or on any other day as required by the investigating officer. In case of petitioner doing so, he shall be released on interim bail to the satisfaction of the arresting officer.

The investigating officer shall make available the relevant record to enable this Court to determine, prima facie, the involvement of the petitioner in the present case.”

Learned State counsel upon instructions from DSP Anil Kumar apprises the Court that petitioner has since joined investigation.

With the able assistance of Mr. C.S.Bakhshi, Additional A.G., Haryana even the police file has been perused.

A startling aspect that would emerge is that the complainant who is representing a school management and an educated person had lodged the complaint with the police authorities leading to the registration of the FIR wherein the allegations of demand and payment of bribe was against Raj Kumar, Clerk co-accused/non-applicant. A trap having been led even the recovery of bribe money is from Raj Kumar co-accused. Apparently, a statement under Section 164 Cr.P.C. has been got recorded after a gap of 05 days approximately in which a completely new story and

complainant would now take somersault thereby directing allegations against the present petitioner who was serving as a District Education Officer at Fatehabad.

The investigating agency apparently is placing heavy reliance upon a recorded conversation dated 26.11.2016 between Raj Kumar co-accused Clerk in the office and the present petitioner and which it is stated to reflect upon the complicity of the present petitioner in the offence. Even the authenticity of such recorded conversation is yet to be established inasmuch as voice samples of the participants in the alleged conversation have not been taken as of date.

In the totality of circumstances and in view of the fact that the petitioner has already joined investigation, he is held entitled to the concession of pre-arrest bail. Order dated 09.12.2016 passed by this Court is made absolute.

Petition disposed of.

19.01.2017

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No