

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CRM-M-20983 of 2018
Date of Decision: 17.05.2018

Yugvir KumarPetitioner

VERSUS

State of PunjabRespondent

2. CRM-M-21077 of 2018

Shiv KumarPetitioner

VERSUS

State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Anurag Arora, Advocate
for the petitioner in CRM-M-20983-2018.

Mr. Deepak Aggarwal, Advocate
for the petitioner in CRM-M-21077-2018.

Mr. Siddharth Gupta, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

These petitions have been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to petitioners in case FIR No. 08 dated 27.04.2018 registered for offences punishable under Sections 7, 13 (2) of Prevention of Corruption Act, 1988 and 120-B of Indian Penal Code, at Police Station Vigilance Bureau Bathinda, District Bathinda.

2. Facts of this case, in brief, have been incorporated in para 2 of order dated 08.05.2018 passed by Additional Sessions Judge, Bathinda, which are reproduced as follows:-

“2. *The brief facts of the prosecution story are that the present FIR has been registered on the statement of*

Munish Kumar son of Mahesh Kumar, resident of Ward No. 8, Shakti Nagar, Goniana Mandi, District Bathinda, on the allegations that he and his elder brother Rajnish Kumar were running a firm M/s Bachna Ram Nohar Chand in shop No. 17, New Anaj Mandi, Goniana Mandi and his brother Rajnish Kumar is the proprietor. They purchased ₹3/3.25 Crores Basmati in the year 2017-2018 and send the M form to Market Committee Coniana Mandi and deposited 2% of market fees for receiving of K Form. He and his brother Rajnish Kumar visited Secretary Yugvir Kumar on 9.3.2018 regarding the K Form. Said Yugvir Kumar Secretary asked them to meet Clerk Shiv Kumar. On 10.3.2018 they met Shiv Kumar clerk and talked about K Form. Shiv Kumar Clerk made demand of ₹10,000/- on behalf of Yugvir Kumar Secretary as a bribe to hand over K Form. They showed their inability to fulfill their demand and requested concession in the demanded money, but Shiv Kumar asked that Yugvir Kumar Secretary would not agree to receive lesser amount from than ₹10,000/-. On 16.03.2018, complainant alongwith his brother visited to Shiv Kumar Clerk and asked him to hand over K Form. Shiv Kumar asked to give bribe of ₹10,000/- for Secretary Yugvir Kumar. They asked him to accept ₹8000/-, but Shiv Kumar asked them that Secretary Yugvir Kumar would not agree to the same. Then complainant handed over ₹10,000/- to Shiv Kumar Clerk in the denomination of ₹2000/- in total five notes as a bribe for Secretary Yugvir Kumar and shot a video on his mobile.”

3. I have heard learned counsel for petitioners and learned counsel for complainant, who has also put in appearance.

4. Learned counsel for petitioner-Yugvir Singh (CRM-M-20983-

2018) has argued that allegations against him is that petitioner-Shiv Kumar (in CRM-M-21077-2018), Clerk in his office has taken bribe of ₹10,000/- on his behalf and his act was captured in a video shoot by complainant . The police has yet to verify during investigation if involvement of petitioner-Yugvir Kumar is made out and custodial interrogation of petitioner for this purpose is not required.

5. Learned counsel for petitioner-Shiv Kumar (CRM-M-21077-2018) has argued that the case of prosecution is based on video recording, authenticity of which is yet to be ascertained and verified. It is not a trap case and identification of currency notes shown as given to petitioner-Shiv Kumar is yet to be ascertained to find as to whether those notes were genuine or fake? The complainant has alleged that they have submitted M-form in January and were not issued the required K-form while as per standing instructions of Market Committee, after expiry of 15 days of submission of M-form, market fee stands waived off, if K-form is not issued. He has further argued that there is delay of more than a month in reporting the matter to police and registration of FIR which has not been explained.

6. Learned counsel for complainant has argued that video recording shows demand of bribe by petitioner-Shiv Kumar for and on behalf of petitioner-Yugvir Kumar. The involvement of Yugvir Kumar is made out from the fact that after submission of M-form he had not signed K-form till 16.03.2018, when the bribe was paid. On 16.03.2018, on receipt of information regarding payment of bribe on his behalf, he signed the K-form of complainant and sent the same to higher authorities. It is a case where the complainant had dared to record illegal action of Government

official in his mobile. He had made complaint to Vigilance Department on 16.03.2018 and after enquiry the FIR was registered.

7. On perusal of FIR, I find that the police swung into action when video of petitioner-Shiv Kumar demanding and accepting bribe for petitioner-Yugvir Kumar had gone viral. Facts and circumstances of the case also reflect towards demand and acceptance of bribe by petitioner-Shiv Kumar. While Shiv Kumar was conduit of Yugvir Kumar, signing of K-form on the day of receipt of bribe money *prima facie* reflects involvement of Yugvir Kumar in demand and acceptance of bribe. It was Yugvir Kumar who, as per complainant, had sent them to Shiv Kumar for issuance of K-form.

8. Keeping in view gravity of offence and serious repercussions on the society of such incident, I am of the opinion that this is not a fit case to exercise discretionary power of this Court to grant pre-arrest bail to petitioners. This case is required to be thoroughly investigated for which custodial interrogation of petitioners is required.

9. Keeping in view above facts, both these petitions have no merit and the same are dismissed.

May 17, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No