

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-43084 of 2017
Date of Decision: 16.05.2018

Kamal Kumar

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate
with Mr. Pratham Sethi, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

Mr. Atul Lakhanpal, Sr. Advocate with
Ms. Bably Kumari, Advocate
for the complainant.

Mr. A.P.S. Gill, Advocate
for Dr. Ashok Kumar.

SURINDER GUPTA, J.

The present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case FIR No. 546 dated 26.09.2017 registered for offences punishable under Sections 218 and 120-B of Indian Penal Code (for short, "IPC") and 7, 8, 9, 12, 13 (2), 13 (1) (d) of Prevention of Corruption Act, at Police Station City Fatehabad, District Fatehabad.

2. A Special Enquiry Team was constituted by Director General of Police, Haryana vide his office order dated 17.05.2017 to enquire into complaint by Bhupinder Singh and others regarding alleged extortion by police officials under the threat of their false implication in case bearing FIR No. 420 dated 18.09.2016, registered for offences punishable under

Sections 3/4/5/23/29 of Pre-Natal Diagnostic Techniques Act and 120-B IPC, at Police Station City Tohana, District Fatehabad.

3. The Special Enquiry Team comprised of Mr. A.S. Dhillon, IPS, IGP, Hisar Range; Mrs. Partiksha Godara, IPS, Superintendent of Police, Hansi; and Mr. Jitender Singh, HPS, DSP (Law & Order), Hisar, who was co-opted as the third member of the team.

4. On enquiry, Special Enquiry Team found that investigation of the case bearing FIR No. 420/2016, registered at Police Station City Tohana was transferred from Fatehabad to Additional S.P. Hisar under the orders of I.G. Hisar Range dated 20.09.2016 on account of serious allegations of irregularities. The investigation was, however, not transferred from Fatehabad on instructions of Mr. O.P. Narwal, IPS, who was transferred from Fatehabad to Haryana Vigilance Department on 18.04.2017. Special Enquiry Team in its enquiry found that accused O.P. Narwal, IPS in connivance with certain police officers (named in enquiry), conduits, one of whom was Kamal Kumar (petitioner), under the threat of false implication have been extorting money from different persons by recording statement of accused in FIR No. 420/2016 and after taking hefty amount from them accused O.P. Narwal, IPS got cleared their names. It was also found in the report of S.E.T. as follows:-

“.....Vide his Arbitrary Investigation Sh. O.P. Narwal was personally associated with the interrogation of the key accused including Dr. Ashok Kumar and driver Jasbir and detailed further confessional statement were recorded in pursuance of the same. The names of a large number of alleged criminal associates of the aforesaid accused were added in

their disclosure statements opening up the possibility for a free-wheeling and arbitrary investigation wherein alleged accused were arrested, got discharged or otherwise let-off without any appreciation of evidence.

C. Relationship with suspect Wazir Mor.

Enquiry has revealed that Wazir Mor has played a dubious role in the investigation of the case and alleged extortion of bribes. Sh. O.P. Narwal admitted having met Wazir Mor at his office and camp office in connection with the investigation of a case lodged on the complaint of Wazir Mor.

The following evidence has emerged on Sh. O.P. Narwal's relation with Wazir Mor.

(i) The analysis of call detail records reveals exchange of calls between Sh. O.P. Narwal and Wazir Mor.

(ii) E/SI Krishan Kumar has claimed in his statement that the severity of punishment awarded to him in a departmental enquiry vide order dated 25.4.2016 by Sh. O.P. Narwal, SP Fatehabad was reduced from dismissal to stoppage of 1 annual increment on the intervention of Wazir Mor. He has claimed to have investigated case FIR No.420/2016 as per the instructions of Sh. O.P. Narwal that were conveyed through Wazir Mor.

(iii) Inspector Parveen Kumar has stated that Wazir Mor is coordinating the reply to the Criminal Writ

Petition filed by Ashok Kumar and others in Punjab and Haryana High Court against police officials of Fatehabad regarding alleged extortion in FIR No.420/2016.

- (iv) E/SI Krishan Kumar has claimed to have passed on to Wazir Mor ₹1.5 lac received as bribe for clearing the name of suspect Sikander on the instructions of Wazir Mor.*
- (v) Randhir Singh son of Dugal Khurd has claimed in his statement that a demand of ₹20 lac to be paid as bribe to Sh. O.P. Narwal was conveyed through (Wazir) Mor.*

D. Allegation of bribe:

The following allegations regarding payment of bribe to Sh. O.P. Narwal emerged during the enquiry :

- (i) Sh. Kamal Arora of Ratia has claimed in an audio recording to have passed on a bribe of ₹4 lac to the SP.*
- (ii) Randhir Singh has claimed that ₹15 lacs were paid to Sh. O.P. Narwal as bribe by his son Harmandeep Singh.*
- (iii) Interceptions of telephonic conversations have references of payment of bribe of the SP.*

E. Building pressure on Inspector Parveen Kumar by threatening dismissal:

Perusal of records has revealed the following:

- (i) *A DE was instituted against Inspector Parveen Kumar No. 77 /HAP by SP Rohtak vide his order dated 3.2.2015 for his involvement in FIR No.32/2015 PS Meham under the prevention of Corruption Act 1988. On 30.9.2016 a view was taken that the DE be kept pending till the decision of the criminal case by the Court. The DE file was transferred to Faridabad vide letter dated 7.11.2016 of SP Rohtak. The Deputy District Attorney, Fatehabad opined on 10.11.2016 that the order of SP Rohtak to keep the DE pending was bad in law and that SP Fatehabad was at liberty to issue a fresh show cause notice and pass order in the matter as deemed fit. Sh. O.P. Narwal, however, decided to keep the DE pending vide his order dated 15.11.2016.*
- (ii) *A DE was instituted against Inspector Parveen Kumar No. 77 /HAP on 18.11.2016 by Sh. O.P. Narwal SP Fatehabad for his alleged misbehaviour under the influence of alcohol with one Jagdish Rai of Dabwali. A show cause notice of dismissal from service was issued by Sh. O.P. Narwal to Inspector Parveen Kumar on 3.2.2017. A punishment of stoppage of 1 annual increment with permanent effect was awarded by Sh. O.P. Narwal on 10.4.2017. Inspector Parveen Kumar*

has alleged that he blindly endorsed the investigation of E/SI Krishan Kumar who cleared the names of 19 accused from 28.2.2017 to 16.4.2017 merely on the strength of affidavits as he was under the threat of dismissal. The role of Sh. O.P. Narwal IPS is suspicious and warrants further investigation.

II. Inspector Parveen Kumar 77 /HAP:

- (a) *Phone calls by arrested accused from custody; Dr. Ashok Kumar stated that he was made to call up his associates and friends from his mobile phone while in custody to request them for money to be paid as bribe. This is corroborated by the call details records. Inspector Parveen Kumar was the In-charge CIA Tohana and head of the investing team at that time.*
- (b) *Dr. Ashok Kumar stated that he was taken under police custody to Samana by Inspector Parveen Kumar and his team. He purchased a stamp paper from a vendor by signing in his register. He signed the blank paper and handed over the same to Jaswinder Singh of Kangrakh, Saman to get ₹2.5 Lacs. Kishan Singh the vendor of stamp paper at Samana Tehsil admitted having sold stamp paper dated 29.11.2016 in the name of Ashok Kumar son of Charanjit Singh of Patran*

and stated that the sale was reflected in the records. He stated that Ashok Kumar had signed in the records.

- (c) Inspector Parveen admitted that the ultrasound machine recovered from the room at Dr. Ashok's farmhouse was planted by Randhir Singh and Smt. Devinder Kumari the wife of Dr. Ashok Kumar. This was not reflected in the recovery memo. Inspector Parveen verified the investigation by E/SI Krishan Kumar whereby a clean chit was given to Randhir Singh and Smt. Devinder Kumari. HC Jarnail Singh of Punjab Police who had accompanied Inspector Parveen and his team denied that any recovery was made in their presence.*
- (d) Inspector Parveen admitted that Dr. Renu, Shravan and driver Kurnesh were arrested from Gangoh, Sharanpur. An ultrasound machine was recovered from Dr. Renu and a car was recovered from Kurnesh the same day. The recoveries were formally shown on a subsequent date to justify police remand. The admission is corroborated by call detail records. HC Hardeen has also stated that an ultrasound machine belonging to Dr. Renu was recovered from Gangoh on the day of her arrest.*

- (e) *Inspector Parveen arrested Suresh Jain @ Toni from Amana on mere implication of his name by Dr. Ashok Kumar. Suresh Jain's police remand was obtained. He was got discharged from the court after a public uproar. There was no appreciation of evidence prior to his arrest. Parveen has stated that Suresh Jain was arrested due to pressure of Sh. O.P. Narwal. The call detail records show exchange of calls by Parveen with the landline telephone at SP residence at the time of arrest.*
- (f) *Inspector Parveen verified the investigation by E/SI Krishan Kumar wherein the names of 19 accused were cleared merely based on affidavit submitted by them or by their associates without any investigation or appreciation of evidence. The list included FIR-named accused Himanshu Kochhar son of Seema nurse. His name was cleared without examining him on the FIR allegation that he had received the trap money paid by the decoy Bubli Devi. Parveen has stated that he verified the investigation by E/SI Krishan Kumar under the threat of dismissal by Sh. O.P. Narwal in a DE. There is documentary evidence that Parveen was indeed served a notice of dismissal from service that was kept pending for 2*

months during which the aforesaid verification was done.

(g) Parveen has stated that he was contacted by Wazir Mor after the institution of this enquiry. Wazir Mor asked him to arrange a woman complainant for getting a false case of rape registered against Dr. Ashok and Randhir. He contacted a lady named Tiru of Baijalpur who was known to him for this purpose. But he later reconsidered the plan and refused Wazir Mor. The intercepted telephonic conversation corroborates the admission by Parveen.

(h) Intercepted telephonic conversation indicates that Parveen together with Wazir Mor an E/SI Krishan Kumar has been involved in managing the replies by the probable victims who were contacted by post by SET to elicit their version. Intercepted conversation reveals that some of the bribe amounts extorted during investigation were returned to win over the victims of extortion.

Offences under section 218 IPC and 13(2) read with 13 (1)(d) of Prevention of Corruption Act is made out against Inspector Parveen. III. E/SI Krishan Kumar 432/H:

(A) He has admitted featuring in the video recording submitted by the complainants. He has admitted that accepted money from Dr. Ashok Kumar, an

arrested accused released on bail. He has admitted that a packet was handed over to EHC Varinder, driver CIA Tohana by Randhir in his presence. EHC Varinder has stated that he accepted the packet on the instruction of E/SI Krishan Kumar and the same was later handed over to E/SI Krishan Kumar.

B. He has admitted his voice in the audio/video recordings provided by complainants. He has admitted having demanded a bribe from Pardeep Kumar of Patran allegedly on the behest of Wazir Mor. He has admitted having accepted ₹1.5 lac as bribe for giving clean chit to Sikandar and has claimed that the same was passed on to Wazir Mor.

C. E/SI Krishan Kumar's voice figures in audio recording in which there is talk of ill-treatment of Dr. Ashok in police custody. His voice also figures in a recording in which he is claiming to have been warned by the SP regarding the red-handed trap by Vigilance Department on the complaint of Pardeep Kumar. E/SI Krishan Kumar's voice also figures in an audio recording in which he has offered to tamper with the seized case property lying in Malkhana. His voice has been identified by officials having familiarity with the same.

D. The intercepted telephonic conversations of E/SI

Krishan Kumar have revealed the following:

- (i) *He was involved with Inspector Parveen in planning to get a false rape case was registered against the complainants to intimidate them.*
- (ii) *He was in knowledge of the bribes that have been paid in the case.*
- (iii) *He is involved in managing favorable statements by the probable victims who were contacted by post by SET to elicit their version. Intercepted conversation reveals that some of the bribe amounts extorted during investigation were returned to win over the victims of extortion.*
- (iv) *He has cleared the names of accused on the payment of bribe.*
- (v) *He has won over Pardeep Kumar, the complainant of FIR No.11/2017, P.S. SVB, Hisar that was lodged against E/SI Krishan Kumar for alleged demand of bribe.*

E. *He admitted having cleared the names of 19 accused merely on the strength of affidavits without any investigation or appreciation of evidence. He stated that he acted on the instruction of Sh. O.P. Narwal conveyed through*

Wazir Mor. Offence under Section 7, 13(2) read with 13(1)(d) of Prevention of Corruption Act 1988 is made out against E/SI Krishan Kumar 432/H.

Wazir Mor

A. *The intercepted telephonic conversation of Wazir Mor have revealed the following:*

- i. *He was involved in extortion of bribes from persons implicated in FIR No.420/2016 PS City Tohana. Intercepted telephonic conversations establish his involvement.*
- ii. *He is involved in managing favourable statements by the probable victims who were contacted by post by SET to elicit their version. Intercepted conversations reveal that some of the bribe amounts extorted during investigation were returned to win over the victims of extortion.*
- iii. *He is involved in planning to get a false case registered against the complainants to force them to withdraw their complaints.*

B. **E/SI Krishan Kumar in his statement to SET has alleged that he cleared the name of 19 accused/suspects.**
Offence under section 7,8,9 of Prevention of Corruption Act 1988 is made out against Wazir Mor.

V. **Kamal Arora:**

a. ***The Audio recording and intercepted***

telephonic conversation of Kamal Arora have revealed the following: 1. He was involved in extortion of bribe from persons implicated in FIR No.420/2016 PS City Tohana. ii Audio recording and intercepted telephonic conversation established his involvement in extortion of bribe. Offence under section 8, 9 of Prevention of Corruption Act 1988 is made out against Kamal Arora.

VI. Sanjay Sura:

- i. *Enquiry has revealed that he involved in soliciting bribes from persons implicated in FIR 420/2016 PS Tohana. Offence under section 8, 9 of Prevention of Corruption Act 1988 is made out against Sanjay Sura. 3. The SET made certain recommendation and W /DGP , Haryana vide his office order dated 19.09.17 has directed to register a case under Section 120B IPC read with section 7/8/9/12/13(2) read with 13(1)(d) of PC Act and 218 IPC against Inspr. Parveen Kumar No.77 /HAP, ESI Krishan Kumar 432/H, Wazir Mor, Kamal Arora, Sanjay Sura and other unknown public servants and unknown others. The role of Shri O.P.*

Narwal IPS, Amarpal Sarpanch, Makhan Goyal and Khazan Singh may be investigated during the course of investigation. The investigation of case may be handed over to the State Crime Branch, Haryana after the investigation.”

5. Learned counsel for the petitioner has argued that allegations against petitioner are that he was conduit and paid bribe of ₹4 lakhs to O.P. Narwal while other accused, namely, Randhir Singh paid ₹15 lakhs to O.P. Narwal through his son Harmandeep Singh. Police has also claimed to have intercepted calls of petitioner and has recording of the same. It will be a question to be seen at the later stage as to whether calls of petitioner were legally intercepted and recorded. The only evidence to connect the petitioner with crime is his voice recording and call details. No recovery is to be effected from him. He has joined the investigation and his custodial interrogation is no more required.

6. Learned State counsel has also submitted that petitioner has joined the investigation, which is still in progress and custodial interrogation of petitioner during investigation is not required.

7. Learned counsel for complainants have vehemently opposed the submission of learned counsel for the petitioner and also learned State counsel. They have argued that police is hand in gloves with accused and want to protect them. Allegations against the petitioner and his co-accused are very serious. They have virtually made a gang to extort money from general public by first implicating them in a criminal case and then after taking huge amount clearing their names. The evidence of payment of huge

amount of bribe and call recording is available with the police. The grant of bail to petitioner at this stage will not only weaken the case of prosecution but also allow persons who are indulging in such type of activities to go scot free.

8. In this enquiry against O.P. Narwal, IPS, other police officers were contacted by Special Enquiry Team who have made startling revelation about procurement of evidence in case bearing FIR No. 420/2016, recording statements of accused implicating so many persons and then after taking huge amount in the shape of bribe through petitioner and one Wazir Mor and other persons, those names were got cleared. It has also come on record that names of 19 accused were got cleared from 28.02.2017 to 16.04.2017 on the strength of affidavit from Inspector Parveen Kumar by giving him threat of dismissal from service. Attempt was also made to implicate complainants in a false rape caes. It is a case, which calls for detailed and thorough investigation for which petitioner is required to be associated and his custodial interrogation will also help the police to get the required information regarding mode and manner in which the money was extracted from general public. The allegations against petitioner are quite serious. From his call record it is *prima facie* made out that he had been instrumental in bribing the police officers to secure release of accused/falsely implicated persons. Though, learned State counsel has stated that custodial interrogation of petitioner is not required, I am of the opinion that this statement has been made as number of senior police officers are involved in this case and police after registration of this FIR in September, 2017 has not been able to arrest them. The instructions conveyed to learned State counsel to this effect may be a ploy to protect the

police officers, who have been found guilty by SET and their conduits.

9. Keeping in view above facts and circumstances of the case, I find no merit in this petition and the same is dismissed.

May 16, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No