

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

210

CRM-M-4711-2020

Date of decision: 26.02.2020

Subhash Chand

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. G.S. Singh, Advocate for
Mr. Gaurav Rathore, Advocate
for the petitioner.

Mr. Kuldeep Tiwari, Addl. A.G. Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed present petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C") for grant of anticipatory bail in case FIR No.03 dated 03.01.2020 registered under Sections 147, 149, 186, 332 and 353 of the Indian Penal Code, 1860 at Police Station Kundli, District Sonapat.

The above-said FIR was registered on complaint of Sh. Neeraj Garg, Senior Intelligence Officer, DGGI-HR R.K. Puram, New Delhi submitted to SHO, Police Station Kudli, Sonapat alleging that on 03.01.2020 at about 11:00 a.m. two GST teams one comprising of complainant and Mr. Himanshu Rohilla, Intelligence Officer, DGGI-HR R.K. Puram, New Delhi and second team comprising of Dinesh Singh, Rakesh Kumar Shukla and Laxmi Narayan Mehra, Intelligence Officers, on the basis of warrant issued on 02.01.2020 by Additional Director (HQ) DGGI, reached at M/s Tarun Chemical and M/s Radhe Enterprises, Village Dahisara, District Sonapat for search and inquiry. On reaching there, they met Amar Pal who represented himself to be sweeper and informed someone. After five minutes petitioner-Subash Chand reached there and informed them that the working of both the firms is looked after by his son Ankur and he called his son by making a telephonic call. At about 11:15 a.m. Ankur reached there who did not

inform the name of owners of the firms and did not allow them to conduct the search. They disclosed their IDs but Ankur did not listen to them and hindered in discharge of their official duties and called about 8 to 10 persons on the spot who altercated with them, caused injuries to them, torn some of their documents and hindered them in discharge of their duties.

Apprehending his arrest the petitioner has filed present petition for grant of anticipatory bail.

The State has opposed the present petition by filing status report by way of affidavit of Harinder Kumar, HPS, Deputy Superintendent of Police, Sonapat which is taken on record.

I have heard learned Counsel for the petitioner and learned State Counsel and have gone through the record.

Learned Counsel for the petitioner has argued that the petitioner is not owner of the firms whose premises were to be searched. The petitioner had merely called his son-Ankur and no other specific allegations have been made against the petitioner. The GST Teams had allegedly raided the premises on the basis of warrant but the GST Teams did not seek any police help and did not even take any action after the alleged incident. Co-accused Ankur and Amar Pal have been granted regular bail by the Judicial Magistrate First Class, Sonapat. No recovery is to be made from the petitioner and his custodial interrogation is not required. The offences are punishable with imprisonment of less than three years. Therefore, the petitioner may be granted anticipatory bail.

On the other hand learned State Counsel as argued that the petitioner is the main conspirator involved in the commission of offences. He called his son Ankur who called 8 to 10 other persons. The members of GST Teams were beaten by them and were not allowed to conduct the raid. Custodial interrogation of the petitioner is necessary regarding other persons involved and documents regarding firms in question are to be recovered from his possession. Therefore, the petition may be dismissed.

The Courts have been granted power to grant anticipatory bail to protect against motivated criminal litigation instituted at the

instance of unscrupulous litigants animated by malice or political vendetta. Grant of anticipatory bail is an extra-ordinary remedy and is not, therefore, intended to be granted in every case. Number of factors including nature and gravity of the offences, quantum of sentence, likelihood of the accused absconding, intimidating or influencing the witnesses or tempering with the evidence or committing similar offences have to be taken into consideration. Socio-economic offences constitute a class apart and need to be visited with different approach in matter of bail. Since socio-economic offences have deep rooted conspiracies affecting the moral fibre of society and causing irreparable harm, the same have to be viewed seriously. Reference in this regard may be made to ***State of Bihar and another Vs. Amit Kumar @ Bachaha Rai : 2017 (13) SCC 751 and Rohit Tandon Vs. Directorate of Enforcement : 2018(11) SCC 46.***

In the present case, GST Team were to conduct raid on the basis of warrant issued by the Additional Director (HQ) DGGI, New Delhi. The petitioner called his son Ankur who summoned other 8 to 10 persons who had given beating to the members of GST Team and did not allow them to conduct the raid. Obstructions in discharge of duties of public servants is a serious matter. Resistance to conducting of raids by Enforcement Agencies of the Government is made with the motives of avoiding detection of tax evasion and fraudulent transactions and have to be sternly dealt with as the same not only adversely affect the fearless working of the Government Agencies but also has consequential adverse impact on the national economy. No doubt, co-accused Ankur and Amar Pal have been granted bail by learned Judicial Magistrate First Class, Sonapat but the case of the petitioner stands on different footing from that of his co-accused as they have been granted regular bail after their due custodial interrogation by the Investigating agency.

Keeping in view the facts and circumstances of the case particularly that the custodial interrogation of the petitioner is necessary for thorough investigation of the matter, discovering the identity of the other persons involved and for recovery of documents regarding the firms in question and also keeping in view the possibility of the

petitioner influencing the witnesses or tempering with evidence if granted anticipatory bail, I am of the considered view that the petitioner does not deserve the concession of anticipatory bail.

In view of the above discussion, the petition being devoid of any merit is hereby dismissed.

26.02.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No