

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27988-2020

Date of decision: September 17, 2020

Gurvinder Singh Sohal	Petitioner
Versus	
Central Bureau of Investigation	Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vinod Ghai, Senior Advocate with
Ms. Kanika Ahuja, Advocate
for the petitioner.

Ms. Shubhra Singh, Advocate
for the respondent-CBI.
(through video conferencing)

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.RC0052020A013 dated 13.8.2020 registered under Section 120-B IPC and Section 7 of the Prevention of Corruption Act, 1988 (amended in 2018) at Police Station, CBI ACB, Chandigarh.

Learned senior counsel for the petitioner has argued that the petitioner is working as Superintendent in the office of Commissioner of CGST, Rohtak. He further submits that the petitioner and the other officials, in compliance of a public notice issued by the department that the hand-sanitizers are taxable at 18% GST w.e.f. 1.7.2017, conducted a raid in the

premises of complainant Manoj Kalra and the complainant was found evading 6% tax of GST, therefore, he was directed to pay the tax and in that process, the complainant has falsely trapped the petitioner and the other accused.

Learned senior counsel has further argued that as per the allegations/version of CBI, the petitioner and the other officials has raided the premises of the complainant on 6.8.2020 and on that day, 03 other co-employees of the petitioner, namely, Kuldeep Hooda, Superintendent; Rohit Malik, Inspector and Pardeep Inspector pressurised the complainant to pay Rs.09 Lacs as bribe. It is further the case of the CBI that the petitioner and co-accused demanded Rs.12 Lacs but a deal was settled for Rs.09 lacs and complainant was directed by the petitioner to pay Rs.04 lacs as part payment of bribe on that day. The complainant, however, handed over Rs.03 lacs in a polythene bag by keeping the same in the car of the petitioner and this fact is recorded in the CCTV. Later on, on the same day, the complainant received a phone call from the petitioner, wherein he in a coded language stated "WO SAMAN TEEN KILO HI NIKLA HAI", meaning thereby, the amount was Rs.03 lacs only. On this, the complainant was directed to come to the office of the petitioner.

It is the further case of the CBI that since the complainant did not want to make the payment of bribe, he made a complaint on 10.8.2020 to the SP, CBI/ACB, Chandigarh. Accordingly, the complainant reached the office of CBI and a trap was prepared by putting a spy camera on the person of complainant Manoj Kalra by inserting a fresh memory card, by putting it inside the shirt of the complainant. Thereafter, the complainant along with Chander Mohan, Director of the company went to meet the petitioner in his office and as per the conversation between them, the complainant requested the petitioner to reduce the amount but the petitioner stated that whatever is fixed, it is fixed as it is to be paid to the higher officials as well. Thereafter, the complainant came back to the office of CBI and the transcription of the dialogues between petitioner and the complainant was made the part of the complaint. Further with regard to demand of bribe, the complainant was directed to reach the office of the CBI on 11.8.2020 along with government currency of Rs.06 lacs, which was to be paid as bribe and after preparing an inventory the complainant was asked to make a phone call to the petitioner to inform that his work will be done on Monday. Again, on 14.8.2020 the complainant was instructed to meet the CBI officials and a trap was laid and the petitioner, along with Kuldeep Hooda

came to collect the remaining bribe of Rs.06 lacs in Creta car driven by petitioner Gurwinder Singh Sohal, however, feeling apprehension, Kuldeep Hooda threw the said bribe money on the rear seat of the said car and dropped from the moving vehicle and thereafter, the petitioner abandoned his Creta car near the Mama Confectionery Shop on Delhi Chandigarh Highway, Bahalgarh and ran away on foot. Thereafter, the bribe money was recovered by the CBI in the presence of the independent witnesses from the car and the currency notes were the same notes which were marked by the CBI.

Learned senior counsel for the petitioner has argued that, in fact, the petitioner is not previously involved in any case and has gone to the factory of complainant to perform his duties and certain lapses were found regarding payment of GST @ 12%, instead of 18%. Therefore, the petitioner is falsely involved in this case. Learned senior counsel further submit that as per the CCTV footage of 6.8.2020, the complainant is shown to be keeping some bag, however, the money is not visible. Learned senior counsel further argued that on 14.8.2020, as per the CBI version, there were many police officials to trap the petitioner and Kuldeep Hooda, at the spot but it is unbelievable that they ran away by abandoning the Creta car. Learned senior counsel further submits that since the petitioner was not arrested at the spot, therefore,

there cannot be any evidence that Rs.06 lacs were handed over to the petitioner or co-accused Kuldeep Hooda.

Learned senior counsel further submits that the petitioner is involved in this case only on the basis of certain inferences that the complainant kept a polythene bag in the car on 6.8.2020 and there was some conversation between the petitioner and the complainant on 10.8.2020 when he visited to the office and an amount of Rs.64 lacs was recovered from co-accused Kuldeep Hooda by raiding his house and he was arrested on 13.8.2020, whereas nothing was recovered from the house of the petitioner when a raid was conducted by CBI. Learned senior counsel also submits that the entire evidence is based on documentary evidence and, therefore, the custodial interrogation is not required.

In reply, the learned counsel appearing for the CBI has opposed the prayer on the ground that there is incriminating evidence against the petitioner who was directly in contact with complainant Manoj Kalara and had accepted part payment of bribe on 6.8.2020 and, thereafter, he called the complainant in his office. Since the complainant did not want to make the payment of bribe, he approached the CBI and on 10.8.2020, he visited the office of CBI and a spy camera was fixed under the shirt of the complainant in which, conversation between him and petitioner was recorded which

also suggest that the petitioner was demanding the bribe and when complainant asked about the amount, he has stated that whatever is fixed, the complainant should pay. It is further argued that when co-accused Kuldeep Hooda was arrested an unaccountable amount of Rs.64 Lacs was recovered and the presence of the petitioner on all the relevant dates, I.e. 6.8.2020 at the premises of the complaint, on 10.8.2020 in the office of the petitioner, and on 14.8.2020 at the place where the trap was laid is proved. Learned counsel for the CBI has further argued that the Creta car admittedly belong to the petitioner and same was found abandoned by him on the date when the trap was laid at Bahalgarh, on Delhi-Chandigarh Highway and there is no explanation as to how his car reached there. Learned counsel further submitted that the custodial interrogation of the petitioner is necessary to find out the nexus between all the accused and for proper investigation.

After hearing the counsel for the parties, I find no ground to grant the anticipatory bail to the petitioner for the following reasons :-

- (i) As per the CCTV footage dated 6.8.2020, the complainant was keeping a polythene bag of Rs.03 lacs as bribe in the car of the petitioner, where the petitioner, along with three other co-accused was present ;

- (ii) Again, on 10.8.2020, the complainant made a complaint to CBI, he was asked to visit the office of the petitioner by putting a spy camera in his shirt and as per the recording of the conversation between the petitioner and the complainant, regarding the payment of balance amount when the complainant asked the petitioner to reduce the amount of bribe, the petitioner replied in negative and stated that whatever is fixed, is fixed as the amount is to be paid to the higher officials. Even the complainant was asked not to talk much about the payment of money in the office;
- (iii) Again, on 14.8.2020, the presence of petitioner, along with co-accused Kuleep Hooda at the place where the CBI has planned a trap is proved from the fact that the petitioner while driving his own Creta car reached at the spot and after the amount of Rs.06 lacs (Marked currency notes) was handed over to co-accused Kuldeep Hooda, he sensing some problem threw the bag on the back seat of the car and escaped away from the moving car. Later on, the petitioner abandoned his Cretra car near big Mama Confectionery Shop on Delhi-Chandigarh Highway and from the car, the marked currency of Rs.06 lacs was recovered by the CBI official in the presence of the independent witnesses;
- (iv) The argument raised by the counsel for the petitioner that the petitioner has been falsely implicated on account of a raid conducted by

him for checking the difference of 6% GST to be paid by the complainant is a matter of evidence; and

- (v) It is undisputed fact that co-accused Kuldeep Hooda was arrested on the next day, i.e. 15.8.2020 and a huge unaccounted amount of Rs.64 lacs was recovered from his house.

Therefore looking into the serious allegations against the petitioner, which suggest his active involvement in the case, custodial investigation of the petitioner is required.

Accordingly, this petition is dismissed.

However, nothing observed herein will have any bearing on the merits of the case.

September 17, 2020
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(ARVIND SINGH SANGWAN)
JUDGE

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