

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

CRM-M-35100-2020

Date of Decision:12.11.2020

Dr. Shisher Aggarwal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

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

Mr. Bhupender Singh, D.A.G., Haryana.

HARI PAL VERMA, J.(Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.372 dated 08.10.2020 under Sections 506, 509 IPC (the offence under Section 8 of the Prevention of Corruption Act was added later on) (for short “the P.C. Act”), registered at Police Station Civil Lines, District Karnal.

Initially, the aforesaid FIR was registered under Sections 506, 509 IPC and vide order dated 10.10.2020, the petitioner was admitted on regular bail by the learned Magistrate, holding therein that the offence under Section 506 IPC is not made out from the video, whereas offence under Section 509 IPC is bailable. It is thereafter, the offence under Section 8 of

transcript of phone conversation sent by the petitioner to the complainant.

Learned Senior Counsel appearing on behalf of the petitioner has argued that even on the basis of whatsapp messages and phone transcription, it cannot be said that there was any promise made by the petitioner to give any undue advantage to a public servant and the offence alleged does not come within the ambit of Section 8 of the P.C. Act. The complainant is an inspector and FIR No.59 dated 29.08.2020 was being investigated by her. In FIR No.59 dated 29.08.2020, the petitioner has already been granted bail by the learned Judicial Magistrate 1st Class, Karnal vide order dated 14.10.2020 and the learned Magistrate has observed that on the basis of allegations made in the FIR, no offence under Section 354-B IPC is made out, as there is no allegation of any assault or criminal force used by the petitioner with the intent to disrobe the complainant.

Learned Senior Counsel has further argued that no offence under Section 8 of the P.C. Act is made out. In the entire case, although it is denied that it does not make out a case of an offer to give an undue advantage to a public servant with the intent to get an undue favour, at the most, on the basis of the facts so narrated in the FIR, it can be a case of abetment under Section 12 of the P.C. Act. Thus, the offence under Section 8 of the P.C. Act is not made out against the petitioner. Petitioner is in custody since 13.10.2020 and trial in the case is not likely to be concluded in the near future. Petitioner is a renowned doctor and is also a member of the National Executive Member of Indian Academy of Paediatrics and National Neonatology Forum and no incriminating evidence is required to be recovered.

Learned State Counsel does not dispute the custody of the

petitioner. However, he submits that there are whatsapp messages to the extent that the petitioner has offered bribe to the public servant. The transcription of the phone conversations which took place between the petitioner and the complainant, the ingredients of offence under Section 8 of the P.C. Act are clearly made out. The complainant is the investigating officer in FIR No.59 dated 29.08.2020 and it is in connection with the aforesaid investigation, when she had gone to arrest the petitioner at his place for evidence, the petitioner was not found in his house and the contents of the FIR were brought to the notice of his father. Immediately, thereafter, the petitioner made an attempt to contact the complainant and made an offer of Rs.1 crore to her by way of whatsapp messages and also telephonic conversations.

Heard learned counsel for the parties.

Petitioner is in custody since 13.10.2020. The conversation so allegedly exchanged between the petitioner and the complainant including the whatsapp messages is matter to be appreciated during the course of trial. Even otherwise, in the FIR, the complainant has made the allegations that the petitioner sent her a message regarding (i) money (ii) call and (iii) one crore and accordingly, these allegations were very much available at the time when the learned Magistrate admitted the petitioner on bail. Be that as it may, the petitioner is in custody since 13.10.2020. The offence is trial by the Special Court. In view of COVID-19 pandemic, trial is not likely to be concluded in the near future. Thus, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to his furnishing adequate bail

bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

However, it is made clear that the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

November 12, 2020
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No