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

**CRM No.978 of 2020 and
CRM No.980 of 2020 in/and
CRM-M No.44626 of 2019
Date of Decision: 14.01.2020**

KRISHAN

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. J.S. Hooda, Advocate
for the petitioner.

Mr. Surender Singh, A.A.G., Haryana.

RAJ MOHAN SINGH, J.

CRM No.978 of 2020

This is an application under Section 482 Cr.P.C. for placing a copy of challan on record.

For the reasons mentioned in the application, the same is allowed. Accompanying document is taken on record as Annexure P-2.

CRM No.980 of 2020

This is an application under Section 482 Cr.P.C. for the addition of offence under Section 7-A of the Prevention of Corruption Act (hereinafter to be referred as 'the Act') in the

head note and prayer clause of the petition.

Learned counsel for the applicant/petitioner states that the challan has been presented under the amended Section 7-A of the Act along with other sections. Therefore, the addition of Section 7-A of the Act is necessary to be incorporated in the head note and prayer clause of the petition.

The prayer is innocuous enough to be accepted. Resultantly, this application is allowed. Offence under Section 7-A of Act is ordered to be incorporated in the head note as well as in the prayer clause of the petition.

Main case

[1]. Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.4 dated 05.09.2019, registered under Sections 420, 120-B IPC and under Section 7, 7-A of the Prevention of Corruption Act, 1988 at Police Station State Vigilance Bureau, Faridabad.

[2]. The FIR was registered with the allegations that on 05.09.2019, the DSP along with ASI Sehdev and other constables were present in a Government vehicle on duty at Mini Secretariat, Palwal. The complainant namely Vijay Kumar came present and gave a written complaint in respect of demand of Rs.10,000/- by the petitioner. The complainant alleged in the complaint that he wanted to construct a house on

his land, but a high transmission 11000 KV line was passing over his land. For shifting of the said line at any other place, complainant had given an application to the petitioner for removing the line. For the removal of the line, an estimate of Rs.50,000/- was given and the complainant had paid the same to the petitioner on 24.08.2019. Petitioner started work on 26.08.2019. JE and SDO came to the spot and almost by that time one line was shifted out of the land.

[3]. It has been further alleged that on 26.08.2019, after completion of half of the work, the petitioner stopped the work and asked for money as expenses. The complainant gave an amount of Rs.7500/- but the petitioner did not start the work and stopped receiving phone of the complainant. The complainant was asked to contact the petitioner and thereafter the complainant contacted the petitioner on telephone. Petitioner asked for an amount of Rs.15,000/- as expenses and asked for bribe of Rs.10,000/- on the pretext that the same was to be given to JE and SDO of the Department. Otherwise no work will be done. The complainant did not want to pay anything as he felt himself to be cheated after having paid a total amount of Rs.57,500/- in lieu of government fee and now the petitioner has again asked for Rs.10,000/- more towards bride. Thereafter trap was laid and the petitioner was apprehended on 05.09.2019.

Recovery of Rs.10,000/- was effected from the petitioner, when he was sitting in a saloon.

[4]. Learned counsel for the petitioner submitted that the challan has been filed under the amended Section 7-A of the Act along with other sections. Petitioner is not a public servant and the petitioner is alleged to have taken undue benefit in collusion with JE Vijay Singh. Petitioner is in custody for more than four and a half months in a case, where the maximum sentence may range from 3 years to 7 years. Charges have not been framed and the trial may take some time in its culmination.

[5]. On the other hand, learned State counsel on instructions from SI Rajesh, submitted that the petitioner was arrested by laying a trap and recovery has been effected. The petitioner was in continuous touch with JE Vijay Singh as per his call details from 27.08.2019 to 05.09.2019. Though the petitioner is not a public servant, but he has taken undue benefit of public servant while accepting bribe of Rs.10,000/- which was recovered from the petitioner, when he was sitting in a saloon.

[6]. Having considered the arguments advanced by learned counsel for the parties, it can be noticed that the challan has already been presented after completion of the investigation. In the light of observations made by the Hon'ble Apex Court in

Sanjay Chandra and Vinod Goenka vs. Central Bureau of

Investigation, 2011(4) R.C.R. (Criminal) 898; Bhadresh Bipinbhai Sheth vs. State of Gujarat & another, (2016) 1 SCC 152; Siddharam Satlingappa Mhetre vs. State of Maharastra and others, 2011(1) R.C.R. (Criminal) 126; Bhagirath Singh S/o Mahipat Singh Judeja vs. State of Gujarat (1984) 1 SCC 284 and Arnesh Kumar vs. State of Bihar, 2014(3) R.C.R. (Criminal) 527, the accused will be in a better position to look after his case while on bail, rather to be in custody. The benefit of bail should not be declined as a measure of punishment. The Court has to see whether there is any possibility of the accused to tamper with the evidence or influence the witnesses.

[7]. In view of ratio of Sanjay Chandra's case (supra), prayer for grant of concession of regular bail to the petitioner can be considered, particularly when the magnitude of the alleged bribe is not huge and there is no loss to the state exchequer.

[8]. In view of above, I deem it appropriate to enlarge the petitioner on regular bail. Consequently, the petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Faridabad.

[9]. Petitioner is directed to surrender his passport (if any) in the trial Court and he shall not leave the country without prior permission of the Court. Since the challan has already been presented, therefore, the prosecution would be at liberty to seek cancellation of bail in accordance with law.

[10]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

January 14, 2020

Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No