IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH
(Heard through Video Conferencing)

(1) Crl. Misc.M- 5858 of 2021 (O&M)
Date of Decision: February 17, 2021

Ved Parkash Jakhar
...Petitioner
Versus
State of Punjab
...Respondent

(2) Crl. Misc.M- 36400 of 2020 (O&M)

Yadwinder Singh
...Petitioner
Versus
State of Punjab
...Respondent

(3) Crl. Misc. M- 40426 of 2020 (O&M)

Piara Singh
...Petitioner
Versus
State of Punjab
...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Bhrigu Dutt Sharma, Advocate
for the petitioner in Crl. Misc. M 5858 of 2021.

Mr. APS Deol, Senior Advocate, with
Mr. HS Deol, Advocate,
for the petitioner in Crl. Misc. M 36400 of 2020.

Mr. Kuldeep V. Singh Ahluwalia, Advocate,
for the petitioner in Crl. Misc. M 40426 of 2020.

Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab.

JAISHREE THAKUR, J.

1. By this common order, this court proposes to dispose of above titled criminal miscellaneous petitions as they arise out of the same set of facts.

2. The petitioners herein are seeking anticipatory bail in FIR No. 8 dated 21.08.2020 registered under Sections 7, 7 (a) and 8 of Prevention of Corruption Act 1988 and Sections 420, 465, 467, 461, 471 and 120 – B of the Indian Penal Code 1860, registered at Police Station Vigilance Bureau Phase-I S.A.S. Nagar, Mohali.

3. In brief, the facts as alleged are that the above FIR was result of an information received by the Vigilance Bureau that a person, namely Vijay Kumar, resident of Khanna is working in the field of transportation within cities of Khanna, Ludhiana and others. He had been indulging in the tax evasion in connivance with the officers/officials of Excise and Taxation Department. It is alleged that the tax was being evaded by ensuring that there is no checking or verification of the documents or the goods while being transported to and from State of Punjab. Heavy amount was being paid on a monthly basis as a bribe to the officers and officials of the taxation department. It is also stated that various other persons were involved in connivance with Vijay Kumar. The mobile number used by these persons was pin pointed after getting permission from the competent authority, technical inputs were collected, and call details were gathered. On 5th March, 2020, one person called Vijay Kumar on his mobile to inform that

he had delivered bribe in district Moga, Faridkot and Ferozepur and asked as to whether Vijay Kumar will deliver the money to Ravi Nandan, Excise and Taxation Officer (ETO), Fazilka or he should deliver. There are other conversations with regard to amounts of money being paid to various officers and officials and a separate bribe given to the AETC, Fazilka. From the call records available of Vijay Kumar, it was found out that Vijay Kumar had a conversation with Kali Charan ETO 43 times from his mobile No. 7973224359 and had spoken with him 20 times from his 2nd mobile No. 9779200754. Piara Singh ETO, Moga, the petitioner in Crl. Misc. M 40426 of 2020 was named in the FIR, along with Varun Nagpal, ETO, Kali Charan ETO, Mobile Wing Chandigarh, Satpal Multani ETO Faridkot,Ved Prakash Jhakar, ETO Fazilka, Simran Brar B.P.C, as persons' who connived with Vijay Kumar, by passing vehicle carrying goods and in the evasion of GST by fabricating fake bills etc. Based upon the information gathered, after having put the phone call of Vijay Kumar under surveillance, FIR came to be registered against 8 persons. Apprehending arrest, anticipatory bail applications were filed by the petitioners herein which came to be rejected by the Sessions Judge, SAS Nagar, Mohali, leading to the filing of the instant bail applications.

4. Learned counsels for the petitioners in these petitions seeking anticipatory bail *interalia* would contend that they have been falsely implicated in the said FIR primarily on the basis of call records pertaining to one Vijay Kumar, which call records cannot be taken into consideration. It is argued that there is not even an iota of evidence to prove that the

petitioners have accepted the bribe money.

5. Mr. Kuldeep Singh Ahluwalia, learned advocate appearing for petitioner Piara Singh in CRM-M-No. 40426 of 2020 vehemently argues that the petitioner was neither posted in Mobile Wing nor in the GST Branch and would have no concern/duty to check the transporters or any goods.

6. Mr. A.P.S. Deol, learned Senior Advocate appearing along with Mr. Himmat Singh Deol, Advocate appearing on behalf of petitioner Yadavindra Singh raises an additional plea that he was not named in the said FIR and has been nominated as an accused only on the basis of a disclosure statement made by Sukhvinder Singh alias Shinda and Rohit Kumar alias Rocky. It is argued that that disclosure statement of a co-accused is not admissible as evidence against the petitioner—Yadavindra Singh.

7. Mr. B.D. Sharma, learned advocate appearing on behalf of the petitioner in CRM-M-No. 5858 of 2021 argues that he was not named in the said FIR and it is only on the disclosure statement of one Shinda, Rohit Kumar Bansal and Jasmeet Singh alias Prince that he has been nominated as one of the persons to whom an amount of ₹1,10,000/- was being paid per month. It is also argued that the alleged confessional statement of Rohit Kumar Bansal and Jasmeet Singh alias Prince are false as the petitioner was not working as ETO Fazilka and was in fact posted as Excise and Taxation Officer Sri Muktsar Sahib and had no concern with the Department of Excise and Taxation as Fazilka.

8. Per contra, Mr. Gaurav Garg Dhuriwala, Sr. DAG Punjab, learned counsel appearing on behalf of the respondent—State vehemently opposes the grant of anticipatory bail and submitted that the present FIR in which 8 persons were mentioned, pertains to a scandal where there has been evasion of GST, causing huge loss to the state exchequer. It is submitted that there is sufficient evidence available with the state to prosecute the petitioners herein for offences as mentioned under the FIR. It is argued that on information made available the Vigilance Department, put the mobile of Vijay Kumar under surveillance and based on the call records it transpired that several Excise and Taxation Officers were involved in helping the transporters/other factory owners in evasion of GST. Vijay Kumar, one of the co- accused in FIR No. 8 dated 21st of August 2020, was running one such transport company at Khanna, Ludhiana. It is argued that Ved Prakash Jakhar petitioner in CRM-M-No. 5151 of 2021, petitioner Piara Singh in CRM-M-No. 40426 of 2020 have specifically been named in the FIR and, therefore, the plea that they have been nominated on the disclosure statement of a co-accused would not be available to them. It is argued that there is a call record available of Vijay Kumar with Yadavindra Singh, petitioner in CRM- M No. 36400 of 2020, wherein it has been disclosed that monthly bribe has been paid at Muktsar for an amount of ₹2 lakhs out of which Varun Nagpal has been paid ₹25,000/, Gill has been paid ₹15,000/- ₹45,000 to Inspectors and a sum of ₹1 lakh has been paid to Jhakhar. Learned counsel for the state also urges that during investigation Yadavindra Singh had opened a bogus frim, namely Noor Enterprises and

he was responsible arranging transport of goods from one place to another without bills in connivance with officials of the Excise and Taxation Department against monthly bribe amounts. Learned counsel for the respondent State also relies upon a reply filed in CRM-M No. 40426 of 2020 i.e *Piara Singh Versus State of Punjab* which has put on record the transcript call details between Vijay Kumar and Yadavindra Singh, who has made a call from his mobile No. 94634155732 to Vijay Kumar on his mobile No. 98780-00023. It is submitted that a transcript would reflect the details of the amounts paid, which includes the name of the petitioner who has been referred to as 'Jakhar'.

9. I have heard the counsel for the parties and with their assistance have gone through the pleadings of the case and the judgements as relied upon.

10. At the very outset, it would be pertinent to note that a co-ordinate Bench of this court in CRM-M No. 28797 of 2020 **Ravi Nandan Versus State of Punjab** decided on 22.09.2020 has already dealt with application of co-accused under the said FIR and has dismissed his anticipatory bail application. This court finds that the petitioners herein are similarly placed. Piara Singh has been specifically nominated as an accused under the said FIR, as has been Ved Prakash Jhakkar. As regards the petitioner—Yadavindra Singh, the investigation revealed call details between him and Vijay Kumar. The transcripts of the conversation are available on the record which would reveal his active participation in the said passing of illegal gratification to ETO's and others.

11. No doubt the personal liberty of the petitioners is at stake, as stated while praying for anticipatory bail, but in the instant case the custodial interrogation would be required to unearth the nexus between the petitioners and the intermediaries, as well as the amount of tax evasion involved in its entirety. The complicity of the petitioners herein as alleged would be revealed and fortified only with further investigation, for which as a necessary corollary, custodial interrogation of the petitioners would be required. In the case in hand, there has to be a deviation from normal rule of bail rather than jail, since the allegations and *prima facie* investigation revealed that there was evasion of tax at a large-scale and officials were being paid bribes on a monthly basis. The investigation is at a very nascent stage regarding the role of the petitioners herein. The petitioners are also persons of influence and would be in a position to scuttle a proper investigation.

12. Consequently, for the reasons afore-stated, these petitions are dismissed. However, nothing stated herein above would be construed as an expression of opinion on the merits of the case.

February 17, 2021 **(JAISHREE THAKUR)**
prem **JUDGE**

Whether speaking/reasoned Yes
Whether reportable No