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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.6706 of 2021 (O&M)

Date of decision: 24.08.2021

Jasbir Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Saurabh Garg, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner in FIR No.341 dated 16.07.2019 registered under Sections 323, 406, 420, 379-B, 120-B IPC at Police Station Shahabad, District Kurukshetra.

At the very outset, it is submitted that vide order dated 23.08.2021, the anticipatory bail application of the co-accused namely Sakshi Ahuja and Priyanka @ Priya, was dismissed by this Court, by passing the following order:-

“Counsel for the petitioner – Suresh Kumar, has relied upon some communications, newspaper reports, CD recordings, which are allegedly made by the witnesses highlighting the scam in which the accused persons have usurped crores of rupees for which number of complaints were given to the State Crime Branch Cell.

During the course of arguments, on the last date of hearing, a report from the Registrar Vigilance of this Court, was sought whether any departmental enquiry is pending against 02 judicial officers, who are arrayed as respondents No.2 and No.5.

A report in a sealed cover has been received, which

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reflects that against the said 02 Judicial Magistrates Ist Class, a complaint was received by the Director General of Police, Haryana, on 15.05.2019 and the same was forwarded to the High Court for initiating the prosecution.

On 17.05.2019, the OSD (Vigilance) conducted a discreet enquiry and submitted a report, which was placed before the Vigilance/Disciplinary Committee of this Court on 09.08.2021 and it is recommended that disciplinary proceedings for imposing major penalty under Rule 4 (b) of the Haryana Civil Services (Punishment and Appeal) Rules, 2016, be initiated against one of the officer, Mr. Manoj Dahiya, now Judicial Magistrate Ist Class, Chandigarh, who is respondent No.2.

It is also stated that the allegations levelled in the present case i.e. CRM-M No.31269 of 2019, titled as “Suresh Kumar vs State of Haryana and others”, are not exactly the same as levelled in the complaint submitted by one Sandeep Kumar, however, the allegation in the complaint submitted by Sandeep Kumar, as per the complaint forwarded by the Director General of Police, Haryana, are almost the same as contained in Annexure P-4 attached with the present petition. So far as the respondent No.5 is concerned, no departmental proceedings are recommended on similar set of allegations.

Since the disciplinary proceedings against respondent No.2 is already initiated and nothing is found against respondent No.5, this petition qua respondents No.2 and 5 is disposed of having been rendered infructuous.

Counsel for the petitioner has, however, submitted that there are serious allegations against some police officials, as well.

It is worth noticing that as per the affidavit filed by the Deputy Superintendent of Police, AEC Kaithal, District Kaithal, it is stated that the petitioner himself is involved in 05 cases, in which he stands acquitted in 03 cases and the trial is pending in remaining 02 cases.

With regard to the complaint of the petitioner – Suresh Kumar, a list Annexure R-1 is attached, against one accused Rajesh @ Candy Baba, Sonu Dhanda and some of the other accused wherein as many as 14 FIRs are pending against them, which are under investigation. It is further stated in the affidavit that a criminal complaint No.468 of 2016 under Sections 452, 120-B, 506, 298, 166-A IPC, is

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also filed by the wife of the petitioner – Renu Dhull, which is pending in the Court of Judicial Magistrate Ist Class, Kaithal. The allegations in the said complaint are that when she along with her husband, was present at her house, some police officials visited there and threatened them that they should not go to Dargah Baba Kamal Shah otherwise, they will be killed. It is further stated that there is no scam of gold rather there is a gang of supplying gold at lesser rates in comparison to market rates, which was active in District Kaithal and District Kurukshetra and the said gang members have duped many innocent persons by alluring them of supplying gold/ornaments and have grabbed huge money from them. In that pretext, the list of 14 cases as referred to above, has been relied upon in the affidavit.

Some details of the investigation conducted in some of the cases is also explained wherein it is stated that in FIR No.590 registered under Sections 406, 420, 120-B IPC and 3(2) of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013, at Police Station Civil Lines, Kaithal, one Prem Shankar has given a complaint to the police against the accused persons that he had given a sum of Rs.3,42,00,000/- by collecting the huge amount from number of persons, as detailed in the FIR, for purchasing gold at lesser rates in comparison with the market rates but neither gold was delivered nor the amount was returned. The case is under investigation. Similar are the allegations in other cases where the modus operandi of the accused persons is that they allured the people of supplying gold at lesser rates and duped them of huge money.

It is also worth noticing that after looking into the name of the accused persons in 14 FIRs, the anticipatory bail application of 02 of the accused i.e. CRM-M No.8926 of 2021 filed by Sakshi Ahuja and CRM-M No.10450 of 2021 filed by Priyanka @ Priya, in FIR No.341 was also ordered to be taken up with the present case.

Both the petitioners namely Sakshi Ahuja and Priyanka @ Priya, were granted interim anticipatory bail vide orders dated 25.02.2021 and dated 05.03.2021.

In nutshell, the allegations in FIR No.341 are that the complainant Amit Kumar stated that in the month of September, 2018, co-accused Jasbir Singh introduced him with another co-accused with Rajesh @ Candy Baba and the complainant was allured to purchase gold at lower

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rate from co-accused Rajesh @ Candy Baba. It is further stated that on inducement of the complainant, he purchased ½ kg of gold on two occasions from the co-accused and it was sold at higher price by other co-accused and on this, the complainant agreed to purchase 04 Kgs of gold @ Rs.27.00 lacs per kg from Rajesh @ Candy Baba and paid Rs.1 crore 8 lacs but later the accused failed to deliver the gold to the complainant and also not returned the amount back. It is also stated that the co-accused Rajesh @ Candy Baba has allured the complainant that he has a licence of importing gold at cheaper rates so that he can sell the same at higher price in the market. It is also stated that when the complainant along with his friend Jasbir Yadav has gone to meet Rajesh @ Candy Baba, the petitioners namely Sakshi Ahuja and Priyanka @ Priya along with other accused persons namely Paras and Prince, were also present. It is further stated in the FIR that the accused Rajesh @ Candy Baba, told him that he has some tax problems and, therefore, he is not able to receive the gold. When the complainant had a doubt and he demanded his money back, one of the accused namely Ramneek stated that Rajesh and Paras have deposited money with him and he will give it to them and thereafter, he gave 02 cheques of Rs.50.00 lacs each in the name of Rajesh @ Candy Baba and thereafter, the complainant took a photo from his mobile phone. Thereafter, Rajesh @ Candy Baba, gave a cheque in the name of the complainant by stating that he will receive the amount in his account and he can take the cheque. However later on, he started adopting delaying tactics.

Later on, Rajesh @ Candy Baba, told the complainant to take the cheque at his Dera. The complainant along with his friend Arun went to Dera Baba Sharifgarh where the accused Prince was sitting in the reception and told him that the Baba is sitting in his cabin and when the complainant went there, the accused/petitioner – Priya was sitting and she told that Baba has left and she has shown a bag carrying money and demanded that the cheque be handed over to her and she will give her the money and when the complainant gave the cheque, issued by Baba, the petitioner – Priya, torn her t-shirt and started pushing out the complainant out of the cabin and raised a voice and in the meantime, Rajesh @ Candy Baba, Paras, Prince and some of the other security guards came there and started beating the

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complainant and his friend and threatened that he should not come again for demanding the money, otherwise, they will involve him in a false case for attempting to commit rape with Priya. It is further stated that they have a CCTV recording and the complainant and his friend, considering it to be an allegation regarding a girl rescued them, left the place. Later on, they came to know that by adopting the same modus operandi Rajesh @ Candy Baba along with other accused has committed similar offences.

Counsel for the petitioners – Priyanka @ Priya and Sakshi Ahuja, have further submitted that they have already joined the investigation.

Mr. Karan Garg, learned counsel appearing for the applicant/respondent No.2 – Rajesh @ Candy Baba, has argued that he has no bank account and the property of the Dera is also not in the name of Rajesh @ Candy Baba and is raised with the donations.

It is further submitted that the direction issued vide order dated 05.03.2021, not to entertain the regular bail application of Rajesh @ Candy Baba, be re-called. Lastly, it is argued that from the applicant – Rajesh @ Candy Baba, there is no recovery and the investigation has not been properly conducted.

On 05.03.2021, the Superintendent of Police, was directed to file an affidavit regarding the modus operandi of co-accused Rajesh @ Candy Baba and to file an affidavit regarding the other complaints filed against him by other persons and further directed that the SIT will be constituted and verify the bank accounts and property of the Dera.

The affidavit of the Superintendent of Police, Kurukshetra is on record and it is stated that an SIT under the supervision of the Deputy Superintendent of Police, Shahabad and other officers, started investigation and submitted a report to the Superintendent of Police.

It is stated that the SIT has also written letters to all the Superintendents of Police in the State of Haryana, for obtaining the cases registered against Rajesh @ Candy Baba and on receiving the details, it was found that he is involved in 18 cases as per Annexure R-2, attached with the affidavit.

A perusal of this affidavit show that apart from FIR No.341, both the petitioners namely Priyanka @ Priya and Sakshi Ahuja, are also involved in FIR Nos.129, 102, 658, 322. It is further stated that out of 18 cases, in 10 cases,

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the same modus operandi as in FIR No.341 was adopted by all the accused as Rajesh @ Candy Baba used to tell the complainant that he can procure the gold at cheaper rates and they can sell it in the market for getting good profit and in that process, he used to allure the complainant for making the payment and supplying the gold after 15 days. Initially, he used to give small items of gold and then, through his persons sell the same at higher rates and by gaining the confidence of the victim, he started demanding bigger amounts.

With regard to the Dera in the name of Baba Badbhag Singh at village Sharifgarh, Tehsil Shahabad, District Kurukshetra, it is stated that on verification from the Tehsildar, Shahabad, it is found that the same is situated in the abadi (i.e. in abadi deh/lal dora) of village Sharifgarh and some land was donated by one of his follower Santokh Singh but there is no deed/document about the same. It is further stated that as per the report of the Tehsildar, no agricultural land is recorded in the name of Rajesh @ Candy Baba and he has a house of 8 marlas in District Panipat, which has been given to the children of his late brother Dalbir Singh. The said house is constructed on the land of Waqf Board and there is no sale deed in the name of the accused Rajesh @ Candy Baba. During the investigation, the accused disclosed that he has registered his Dera in the name of Dera Baba Badbhag Singh Sacha Darbar at village Sharifgarh, from District Manager, Firms and Societies, District Kurukshetra, which has verified that there is a society registered in the name of Dera Baba Badbhag Singh Ji Sacha Darbar Society. As per the PAN number of the Dera, no bank account linked with the Dera was found.

Counsel for the State has argued that both the petitioners namely Sakshi Ahuja and Priyanka @ Priya, have joined the investigation, however, they are involved in number of other FIRs and the modus operandi of the co-accused Rajesh @ Candy Baba, is that he used to give cheque to the victims and then, call them to his Dera where the co-accused, who are ladies, offer them money in lieu of the cheque and after taking the cheque back, they started creating scenes as if the victims have teased them or molest them and then, they extend threats that they will be involved in case of attempt to rape by tearing their clothes. Even the CCTV recording is made in a manner that the persons visiting the Dera have tried to molest the

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women.

In reply, counsel for the petitioner – Sakshi Ahuja, has argued that there is no direct allegation against the petitioner that she has levelled any allegation of molestation and no amount was given to her. It is further submitted that the petitioner – Sakshi Ahuja, is involved in the case because she is in live-in relationship with Rajesh @ Candy Baba.

Similar arguments are raised by counsel for the petitioner – Priyanka @ Priya.

*After hearing the counsel for the parties and looking into the serious allegations against the petitioners – Sakshi Ahuja and Priyanka @ Priya, I find no ground to continue the anticipatory bail granted to the petitioners and accordingly, both the petitions i.e. **CRM-M Nos.8926 and 10450 of 2021**, are **dismissed**.*

Since the petitioner – Suesh Kumar, has levelled allegations against the police officials, let the affidavit of the Director General of Police, Haryana, be filed well before the next date of hearing.

*Accordingly, the petition i.e. **CRM-M No.31269 of 2019**, is ordered to be listed for hearing on **01.03.2022**, for filing reply by the Director General of Police, Haryana.*

Additionally, the Deputy Commissioner, Kurukshetra, is also directed to submit a report regarding the status of the Dera and considering the fact that there is no document of title in favour of the co-accused Rajesh @ Candy Baba, and the land being in abadi deh, would vest with the Gram Panchayat under the provisions of the Punjab Village Common Land Act. The Deputy Commissioner, Kurukshetra, will constitute a Committee comprising of Sub-Divisional Magistrate, Shahabad, Block Development and Panchayat Officer (BDPO), Shahabad, Sub-Divisional Officer, PWD (B&R), Shahabad and the SHO, Police Station Shahabad, to visit the premises and prepare a site plan along with the inventory of items lying therein. The Deputy Commissioner will also send a proposal as to how the property of the Dera can be utilized for public purpose, like school or hospital, etc.”

For the sake of brevity, the facts are not reproduced again.

The only argument raised by counsel for the petitioner is that the petitioner is in custody for the last about 08 months.

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Reply by way of affidavit of the Inspector/SHO, Police Station Shahabad, District Kurukshetra, is on record in which the facts stated in the affidavit of the Superintendent of Police, Kurukshetra are reiterated regarding the allegation against Rajesh @ Candy Baba as well as the petitioner and other co-accused.

Counsel for the State has argued that it is stated in the affidavit that Rajesh @ Candy Baba, is having 05 bank accounts in different banks, however, no amount was found in the same. It is also stated that Rajesh @ Candy Baba, and other accused are involved in some other cases.

After hearing the counsel for the parties and going through the reply of the Inspector/SHO, Police Station Shahabad, District Kurukshetra, and considering the serious allegations, I find no ground to grant the concession of bail to the petitioner.

Dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

24.08.2021
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No