

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

106

CRM-M-25620-2021.

Date of Decision: 20.07.2021.

Balwinder Singh

....Petitioner.

Versus

State of Punjab and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Ms. Reeta Kohli, Senior Advocate with
Mr. Shivam Grover, Advocate for petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This petition under Section 438 Cr.P.C. has been moved by petitioner for grant of pre-arrest bail in case FIR No.7 dated 03.06.2021 under Sections 384, 419 and 420 IPC (Section 8 of Prevention of Corruption Act and Section 120-B IPC added lateron), registered at Police Station Vigilance Bureau, Phase-1, Mohali.

Learned senior counsel for the petitioner *inter alia* contends that allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. She further urges that in terms of allegations as set up in the FIR, petitioner impersonated himself as Vigilance Officer for some wrongful gain from the complainant. She further

urges that as a matter of fact petitioner had approached complainant-Dharampal Singh, Patwari, to get effected mutation of land, for which the complainant had sought money and the entire transaction was video recorded by the petitioner. She further urges that when complainant came to know about the fact of being caught on camera asking money, he (complainant) laid a trap to incriminate the petitioner. She further urges that petitioner has a video recording of the entire incident that makes it apparent that the whole scenario has been falsely concocted by the complainant in order to save himself from the clutches of law. She further submits that in terms of video recording, petitioner has claimed that he is running a welding shop and there was no occasion for the petitioner saying that he was a Vigilance Officer. She further urges that there is no allegation that petitioner has received any money, however, only allegation against the petitioner is of impersonating himself as Vigilance Officer, which fact is completely belied by the video recording. She further urges that petitioner and co-accused have been implicated through sting operation and there is absolutely no recovery to be made from the petitioner as there is no allegation of any money being given to the petitioner. She further submits that though petitioner has no nexus whatsoever with the alleged offence, he is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to him.

On the other hand, learned State counsel while opposing the cause of petitioner has vehemently argued that petitioner had approached complainant-Dharampal Singh, Patwari, for getting mutation entered in the name of Gurmeet Singh and further himself offered Rs.1000/- as bribe to the

complainant, which amount was returned by the complainant to the petitioner, however, photocopy of document was retained by him for processing. He further submits that petitioner had told the complainant that he was Inspector Vigilance and his brother's brother-in-law was posted as SHO, Police Station Shambhu. He further submits that petitioner had also told the complainant that he had made a video recording of the entire incident and he was going to lodge complaint against him for demand and acceptance of bribe and further demanded Rs.5 Lakhs from the complainant for not reporting the matter to the authorities concerned. He further urges that on 02.06.2021, petitioner again approached the complainant and demanded an amount of Rs.5 Lakhs to keep quiet, but complainant told him that he could arrange only Rs.60,000/- to Rs.70,000/- and this incident was video recorded by the complainant and the matter was reported to the Vigilance Bureau, Flying Squad-I and then trap was set by Vigilance Bureau on 03.06.2021, where petitioner had deputed his son Gurdian Singh to collect extortion money from complainant and further petitioner also asked his son Gurdian Singh to issue a bill of Rs.50,000/- in the name of complainant for gate grills in back date and accordingly Bill No.315 dated 19.05.2021 amounting to Rs.49,790/- of gate grills was issued in the name of complainant. He further submits that Gurdhian Singh was arrested red-handed by the Vigilance Bureau on the spot while accepting extortion money to the tune of Rs.50,000/- from the complainant and that too in the presence of official witnesses. He further submits that after the arrest of co-accused Gurdhian Singh, his personal search was conducted, wherein mobile phone was recovered and after having heard the calls recorded in the said mobile phone, it became amply clear that he was fully involved in

extracting extortion money alongwith his father (petitioner-Balwinder Singh) from complainant-Patwari. He further urges that in the recording made by complainant-Dharampal Singh, petitioner was telling the complainant that earlier he had got involved another Patwari and to get rid of that situation, said Patwari had made payment of Rs.10 Lakhs to him. He further submits that mobile phone by which the purported video was prepared by the petitioner as well as the back dated bill prepared in the name of complainant, are to be recovered from petitioner and further earlier scams, if any, committed by the petitioner, are to be unveiled. He further urges that in view of nature of offence committed by the petitioner, his custodial interrogation is required to unearth the truth and as such he is not entitled for the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the records of the case.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly petitioner conspired with co-accused Gurdhian Singh and then to effectuate their illegal designs offered bribe of Rs.1,000/- to complainant-Patwari on the pretext of getting mutation entered and got video recorded said incident with ulterior motive to blackmail the complainant and petitioner while disclosing himself as Inspector Vigilance further exerted pressure upon the complainant to part with extortion money of Rs.50,000/- and then to collect said amount (extortion money), the petitioner mischievously deputed his son Gurdhian Singh, who was apprehended alongwith extortion money on the spot by the Vigilance Bureau team. Pre-arrest bail is not to be granted as a matter of

routine/course in all cases. The grant or refusal of such bail depends on the variety of circumstances, the cumulative effect of which, should enter the judicial verdict. The power under Section 438 Cr.P.C. is to be exercised sparingly and in exceptional cases keeping into focus the facts and circumstances of each case. At the same time, it is well-settled that the order of anticipatory bail cannot be allowed to circumvent normal procedure of arrest and investigation by the police. The Court has also to see that the investigation is in the province of the police and an order of anticipatory bail should not operate as an in-road into the statutory investigational powers of the police, in exercising the judicial discretion in granting the anticipatory bail. The Court should not be unmindful of the difficulties likely to be faced by the Investigating Agency and the public interest likely to be affected thereby in this relevant connection. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is uncalled for. Keeping in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for his entitlement of pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

20.07.2021

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