

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

CRM-M-38430-2021 (O&M)
Date of Decision:- 11.10.2021

Ajay Sharma ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Deepak Sharma, Advocate for the petitioner.

Ms. Sheenu Sura, DAG, Haryana,
assisted by DSP Amit Dahiya, State Crime Branch,
Madhuban.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered vide FIR No.594 dated 8.12.2020 registered at Police Station Sector 5, Panchkula, District Panchkula, Haryana under Sections 384, 420 and 120-B of Indian Penal Code (Section 384 IPC deleted and Sections 395, 201 and 109 IPC added lateron).
2. The FIR was lodged at the instance of Kunal Chopra son of Surender Chopra, wherein he has stated that since he was interested in buying a house at Panchkula, his friend namely Sanjeev suggested him to meet Kushwinder Sharma. When the complainant spoke to Kushwinder Sharma over phone, said Kushwinder Sharma represented that he would get him a house of NRI at Panchkula at half the price and that an amount of ₹50 lacs would be

required to be paid to the caretaker. It is alleged that pursuant to the said representation the complainant went to Panchkula alongwith a bag containing ₹55.5 lacs and stayed at Hotel Siraj-2, Sector 5, Panchkula and informed Kushwinder Sharma. After about half an hour Kushwinder Sharma accompanied by 2 constables and 5 unknown persons came there and picked up his bag containing cash, while raising an allegation against the complainant that he was indulging in gambling and 'satta' and told him that he should disappear from there lest he could be jailed. The complainant noted down the registration number of the Bolero vehicle in which the said persons left and also followed the same. The said Bolero vehicle bearing No. 0182 on which SHO, Sector 14, Panchkula was written, proceeded towards Police Station, Sector-14. Later, when he met SHO, he stated that no such raid had been conducted and assured him that he would get his money back. However, nothing was done and rather he was threatened that he would be implicated in some case.

3. The learned counsel for the petitioner has submitted that he is nowhere named in the FIR and has subsequently been nominated as an accused on the basis of statements allegedly made by co-accused, which would hardly carry any evidentiary value. It has been submitted that since an identically situated co-accused Rashmi has already been extended the benefit of interim anticipatory bail, he also deserves the same concession on grounds of parity, particularity when recovery already stands effected and other accused have also been arrested.
4. Opposing the petition, the learned State counsel has submitted that it is a case where three other co-accused have suffered disclosure statements

(Annexure R-1, Annexure R-2 and Annexure R-3) nominating the petitioner as an accused which cannot be discarded lightly particularly when there is other evidence to substantiate the allegation in the shape of tower location record pertaining to mobile phone of the petitioner and of others. It has also been submitted that the petitioner cannot claim parity with the case of co-accused Rashmi, as even as per FIR, no lady had entered into the room of complainant when 2 constable and five unknown persons had entered and taken away the bag containing ₹55.5 lacs and that Rashmi, in any case, being a lady would be on a different pedestal.

5. I have considered rival submissions addressed before this Court.
6. It is certainly not in dispute that the petitioner is not specifically named in the FIR and has been nominated subsequently on the basis of disclosure statements of three co-accused who were arrested by the police. It is, however, pertinent to mention that in the FIR itself, the complainant has specifically stated that he had noted down the registration number of the Bolero vehicle in which the police officials had come and had followed the same upto Police Station, Sector-14, Panchkula. While on the said day, the complainant could not meet anybody in the police station but later when he went again, he met SHO Naveen and also saw the Bolero in question parked there. SHO Naveen, however, told him that no such raid had been conducted at the hotel where the petitioner had stayed and assured him that he would look into the matter and get his money back. However, when the complainant again went to the police station on the next day, he was threatened by the police and was told to go away from there.

7. In the instant case, a Special Investigation Team was constituted which visited Hotel Siraj, Sector 5, Panchkula and collected the CCTV footage. GPS details of police vehicle (Bolero) bearing Registration No. HR-03Z-0182 was also taken into possession. Another vehicle used in the occurrence i.e. HR-03P-0031 was found to be registered in the name of one Mukesh Sharma who disclosed that his car was being used by his son Vikram Sharma @ Saifi. Inspector Naveen, the then SHO, Police Station, Sector 14, Panchkula and Constable Har Pal were also arrested as sufficient evidence was found against them. During the course of interrogation, they confessed their guilt and disclosed about other co-accused. On 9.1.2021, accused Sanjeev Sadh was interrogated and he confessed his guilt. On 12.1.2021, accused SHO Naveen, Head Constable Har Pal and Sanjeev Sadh, in pursuance of their disclosure statements demarcated the place of occurrence. The mobile phone of Head Constable Har Pal was also taken into possession. On 13.2.2021, accused Sanjeev Kumar Gaur was associated with the investigation and finding sufficient evidence against him, he was arrested. On 17.2.2021, Vikram Sharma was also arrested.
8. During the interrogation of the accused who had been arrested, especially accused Sanjeev Kumar Gaur, Vikram Sharma @ Saifi and Gurdeep @ Deepak, they specifically disclosed that petitioner/accused alongwith two other accused in police uniform had committed dacoity and had looted complainant Kunal Chopra while he was putting up at Hotel Siraj on 8.12.2020. Still further, the call detail record alongwith tower location record shows that the mobile phone being used by the petitioner i.e. 85728-33290 was present at the place of occurrence and that he was having multiple mobile conversation with his co-accused. The police has also

collected the record pertaining to the issuance of SIM card i.e. Customer Application Form, as per which the address of the applicant is the same, as has been furnished in the instant petition. Although, during the course of arguments, it was submitted that the complainant has effected a compromise with other accused but no such compromise is shown to have been effected with the present petitioner. In any case, even in case any compromise has been effected, having regard to the gravity of the offences where police officials are involved, this Court is unable to accept the said contention for leniency on grounds of amicable settlement amongst the parties.

9. In view of the aforestated discussion, it is evident that the petitioner in connivance with police officials had masterminded a plan to rob the complainant and has successfully robbed him of huge amount of about more than ₹50 lacs. The involvement of the petitioner is *prima facie* evident not just from the disclosure statement but also from the scientific evidence in the shape of call detail record and call location record. The petitioner cannot get any advantage from order dated 20.8.2021 passed in the case of co-accused Rashmi wherein she has been granted interim bail as the said order is just an interim order and not a final order and that too having been passed in the case of a lady, as even as per FIR, no lady was present. In these circumstances, this Court finds that it is a case which would warrant custodial interrogation. The petition, as such, is declined.

11.10.2021

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No