

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

205

CRM-M-38241 of 2020
Date of decision:25.10.2021

Parveen Kumar

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Randeep Singh Rai, Senior Advocate with
Mr. Gautam Dutt, Advocate and
Mr. Sandeep Wadhawan, Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 438 of the Code of Criminal Procedure seeking grant of anticipatory bail to the petitioner in case FIR No.184 dated 02.10.2020 registered under Sections 420, 465, 467, 468, 471 and 120-B of Indian Penal Code, 1860 at Police Station Cantonment, District Police Commissionerate Amritsar.

While granting interim protection to the petitioner, this Court passed the following order on 19.11.2020:-

“The Court has been convened through video conferencing due to Covid-19 pandemic.

Learned senior counsel appearing for the petitioner has argued that the petitioner is a Non-medico Director of Life Kare Hospital, Amritsar, accused no.3, which is a unit of M/s Kantha Healthcare Pvt. Ltd., and no specific role has been ascribed to him in the FIR. Counsel submits that the hospital is empaneled under the Ex-servicemen Contributory Health Scheme (ECHS) of Ministry of Defence, to provide medicare to Ex-servicemen and their dependents. A Memorandum of Agreement (MOA) dated 10.07.2019 (Annexure P-3) was entered into between the hospital and the Director, Regional Centre, ECHS Jalandhar. Counsel has taken the Court through Advisory:1-2019 Standard Operating Procedure (SOP) dated 04.12.2019 (Annexure P-5) wherein the detailed procedure has been prescribed for taking action against empaneled hospitals/diagnostic centres/medical facilities including their dis-empanelment in case of violation of terms and conditions of MOA. In particular, reference has been made to para 12 wherein it is provided that Managing Director, ECHS shall seek a preliminary enquiry report from the Director Regional Centre and take action on the basis of the same. Further reference has been made to para 13, wherein it has been mentioned that the entire process will be completed within a period of 60 days from the date of Stop Referral which is

issued on the basis of preliminary inquiry. A categorical contention has been raised by the learned senior counsel that action under the SOP has been initiated by the Regional Director by issuing a show-cause-notice dated 14.09.2020 to the hospital to which response has already been submitted and inquiry is going on. According to the counsel, immediately upon submission of the reply, the instant complaint was lodged by the Brigadier Station Commander, Station Head Quarters, Amritsar Cantt, who is neither authorised to conduct any inquiry nor is he empowered to lodge any complaint of any alleged wrong doing under the scheme.

Notice of motion.

On asking of the Court, Mr. Amar Ashok Pathak, Additional Advocate General, Punjab, who is assisted by Mr. Ashok Kumar Arora, Advocate for the complainant, accept notice on behalf of the respondents. It has been submitted on behalf of the respondents that the complainant is the Brigadier Station Commander Station Head Quarters, Amritsar Cantt and Chairman of the ECHS. According to the respondents, ECHS was started in the year 2003 and certain conditions of the scheme were relaxed during the Covid-19 when a scam was unearthed during the months of April and May, 2020 when it transpired that Guardians of Governance (GoG) in connivance

with some Ex-servicemen took ECHS cards of 55 of Ex-servicemen and by impersonation showed that they had been admitted in the private hospitals and raised the bills for their medical treatment. According to the counsel, in this way, the fraud has been committed in active participation with the petitioner. It is their submission that Code of Enquiry was conducted wherein the fraud was established and thereafter, the present FIR was lodged.

Counsel for respondents seek and is granted time to place on record the material on the basis of which these arguments have been raised.

List on 17.12.2020.

Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, he shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting Investigating Officer. He shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

Affidavits have been filed on behalf of the State and the complainant, which have been considered.

Upon instructions from SI Narinder Kumar, State counsel submits that the petitioner has joined the investigation and is no longer required for custodial interrogation.

In view of the above facts, but without commenting on the merits of the case, the present petition is allowed and the order dated 19.11.2020 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

October 25, 2021

savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes/No