

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-45990-2021

Date of Decision: 13.12.2021

Narinder Kumar

....Petitioner

Versus

State of Punjab

...Respondents

CORAM: Hon'ble Mr.Justice Deepak Sibal

Present: Mr.B.S. Bhalla, Advocate for petitioner
Mr.Amandeep Singh Gill, Senior D.A.G., Punjab

Deepak Sibal, J. (Oral)

The matter has been taken up through Video Conferencing.

The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in FIR No.46 dated 17.04.2021 under Sections 420, 467, 468, 471, 120-B, 34 IPC registered at police station Shahpur Kandi, district Pathankot.

Vijay Kumar Thappa of Amandeep Group of Hospitals (for short – the hospital) filed an application with the police that the hospital received a complaint from the army authorities that in the cases of certain patients referred to the hospital for treatment under the ECHS Scheme, signatures of the army officials appended on the treatment documents, to verify the given treatment, appeared to be forged. Inquiries conducted by the hospital had pointed the needle of suspicion towards the petitioner and one Abhinandan Thakur who had been entrusted by the hospital with the task of seeking permissions/ approvals from the army authorities with regard to admission/ treatment of patients referred under the ECHS Scheme.

The hospital had tried to contact the petitioner and Abhinandan Thakur but they were not traceable. Therefore, the police was requested to take appropriate legal action against them. On the basis of the afore application the police registered the FIR in which the petitioner seeks anticipatory bail.

Learned counsel for the petitioner submits that the petitioner has been made a scapegoat in the scam which involves the hospital and certain army officials; the hospital was empanelled with the Ministry of Defence, Government of India for treatment of Army personnel under the ECHS Scheme; the petitioner being one of the employees of the hospital was to fill up the forms of the referred patients for getting the same verified from the concerned doctor after the treatment; the petitioner was then required to get such documents counter-signed from the army authorities so that thereafter payments could be released in favour of the hospital; on presentation, some of the files were approved by the army authorities but some were not; the unapproved files were then returned by the petitioner to a committee set up by the hospital which comprised of Dr.Avtar Singh, Dr.Amandeep Kaur, Dr.Sehwaj and Mr.Sachin Kumar; after a few days of their return, these files were then routed back to the petitioner through Vijay Kumar Thappa, who was also one of the employees of the hospital; at the time of their return all these files contained counter-signatures of army officers alongwith seals/ stamps of the army authorities; the petitioner then used to upload these files in the records; on the basis of such approvals, payments was transferred from the bank accounts of the Indian Army to the bank accounts of the hospital; the hospital has also been using duplicate stamps and seals of the Indian Army to fabricate documents to show extended stay of patients in the hospital on the basis whereof additional

funds, to which they were not entitled to, were then got transferred into the bank account(s) of the hospital; the hospital has also been forging signatures of senior Army officers and using their fake stamps/ seals to show grant of permissions for major surgeries, which at times were not even conducted; these documents were then used by the hospital for transfer of funds into their bank accounts; the afore fraudulent acts on the part of the hospital came to the knowledge of the army authorities leading to filing of complaints by them and removal of the hospital from the panel of approved hospitals under the ECHS Scheme; in the afore circumstances the hospital filed the FIR in question only to make a scapegoat out of the petitioner and co-accused Abhinandan Thakur; the hospital has been committing the afore fraudulent activities since the year 2016 i.e. for about 5 years; under such fraudulent acts the hospital has unduly enriched itself by crores of rupees; the police had been influenced by the hospital to give it a clean chit and this is in spite of the fact that the only beneficiary under the scam is the hospital; after the afore facts were brought to the notice of this Court the police has now lodged a FIR against the hospital management being FIR No.199 dated 09.12.2021 registered at Police Station Shahpur Kandi, district Pathankot under Sections 420, 467, 468, 471 IPC but lodging of such FIR is only to pull wool over the eyes of this Court as ultimately a formal clean chit will be given to the hospital management as had been done in the case of another FIR being FIR No.184 dated on 02.10.2020 under Sections 420, 465, 467, 468, 471, 120-B IPC at Police Station Cantonment, Amritsar by the army authorities against 25 persons which included 15 doctors of various hospitals where, after investigation, the case against the doctors/ hospitals has been closed by the police; the petitioner has no other criminal case

pending against him and that the petitioner is also ready and willing to join investigation as and when called by the investigating agency.

In reply, an affidavit dated 25.11.2021 of Mr.Swarandeeep Singh, PPS, Assistant Inspector General of Police, Investigation -1, Bureau of Investigation, Punjab was filed on behalf of the State as per which, without giving any reason whatsoever and without even referring to any document, a clean chit was given to the hospital and again without any reason the entire blame of the scam was pinned on the petitioner and co-accused Abhinandan Thakur. However, today this Court is informed that on 09.12.2021 a FIR has been registered by the local Police at Pathankot wherein the hospital is accused of the afore fraudulent acts. When this Court sought the reason for such change between 25.11.2021 and 09.12.2021 and that too when the Assistant Inspector General of Police, Investigation -1, Bureau of Investigation, Punjab had given the hospital a clean chit, the learned State counsel drew a blank.

The petitioner blames the entire scam on its sole beneficiary i.e. the hospital and further alleges that the investigating agency is under the influence of the hospital due to its deep pockets. On the other hand, the hospital seeks to put the entire blame on the petitioner and Abhinandan Thakur as according to it they are the only players in the scam on the side of the hospital. Then there is the suspiciously blowing of hot and cold in the same breath by the investigating agency with regard to exonerating and accusing the hospital and that too without any worthwhile reason in either case.

After considering the afore rival submissions and going through the record the case the same is found to contain serious allegations

that between the years 2016 and 2021 i.e. for 5 years, on the basis of forged prescription/ verification slips and documents on which were appended fake seals/ stamps of the Indian Army as also forged signatures of senior Army personnel, crores of rupees of the Indian Army/ Ministry of Defence have been transferred into the bank accounts of the hospital.

Considering the seriousness and the sensitivity of the issue involved in the present case this Court is of the opinion that the petitioner's custodial interrogation is necessary and therefore his prayer for the grant of anticipatory bail is rejected.

Further, without commenting on the merits of the investigation conducted so far but again after considering the seriousness and sensitivity of the issue as also the magnitude of the alleged scam which is said to involve forging of signatures of senior Army personnel and appending of fake stamps/ seals of the Indian Army, it is considered desirable that the investigation of this case be entrusted to a Special Investigation Team (for short – the S.I.T.) which would be headed by Mr.Prabodh Kumar, IPS, Special D.G.P. Investigation, Lokpal, Punjab. To assist him in the investigation Mr.Prabodh Kumar would be at liberty to select the team of officers/ police personnel, including 01 officer of the rank of Superintendent of Police. To avoid parallel investigations he shall also investigate FIR No.199 dated 09.12.2021 registered at Police Station Shahpur Kandi, district Pathankot under Sections 420, 467, 468, 471 IPC as also further investigate a related matter being FIR No.184 which was registered on 02.10.2020 under Sections 420, 465, 467, 468, 471, 120-B IPC at police station Cantonment, Amritsar.

The records of the aforesaid 03 cases shall be sealed forthwith

and handed over to the S.I.T.

The Director General of Police, Punjab is directed to extend all possible assistance to the S.I.T. which shall include logistic support, setting up of camp office etc.

The Lokpal, Punjab, to which Mr.Prabodh Kumar is presently attached, is also requested to grant necessary permission to enable him to carry out the investigations as above. An officer of equivalent rank shall be provided by the State to the Lokpal, Punjab for assistance in case the same is required by the Lokpal, Punjab during the period Mr.Prabodh Kumar is investigating the cases in question.

The S.I.T. shall file its status report within one month and for that purpose only the present petition be listed before this Court on 17.01.2022.

13.12.2021
gk

(Deepak Sibal)
Judge

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