

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

(206)

CRM-M-1924-2022  
Date of decision:- 06.06.2022

Ishwar Singh

... Petitioner

Versus

State of Haryana

... Respondent

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Tarun Yadav, Advocate for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana for State-respondent.

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**SUVIR SEHGAL, J. (ORAL)**

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in case FIR No.12 dated 25.10.2021, registered for offence under Section 7 of the Prevention of Corruption Act, 1988 (for short "the PC Act"), at Police Station SVB, Gurugram, Annexure P-1.

As per the case of the prosecution, FIR, Annexure P-1, has been registered on the complaint of Vikram Sharma on the allegation that he and his partner applied for a No Objection Certificate (NOC) for change of land use in respect of a joint land held by them. Ishwar Singh, JE in PWD, present petitioner, demanded Rs.50,000/- by way of bribe to get the file cleared and told them that the money has to be shared amongst various officials. The amount was settled at Rs.45,000/-, out of which cash of Rs.10,000/- was paid on two different occasions and on 25.10.2021, the

balance Rs.25,000/- was paid and conversation that took place between the parties has been recorded. A complaint has been lodged for taking action against Ishwar Singh as he refused to discharge his official duty without being bribed.

By making a reference to letter, Annexure P-2, counsel for the petitioner contends that the entire basis of the FIR is false as the NOC already stood issued on 22.10.2021. He argues that no recovery has been effected from the petitioner, rather alleged recovery of Rs.25,000/- was made from the drawer of co-accused, Azad Singh, who has been released on regular bail by the learned Additional Sessions Judge, Gurugram, vide order dated 10.12.2021, Annexure P-4. Still further, it is his argument that the veracity of the audio recording being relied upon by the prosecution is yet to be ascertained. He asserts that the petitioner, who is in custody since October, 2021, deserves to be enlarged on bail as final report has been presented, charge has been framed under Section 7 of PC Act and despite being summoned twice, complainant has not appeared to record his testimony.

*Per contra*, learned State counsel, upon instructions from Insp. Ram Jash, has opposed the petition by submitting that the demand of illegal gratification has been made by the petitioner and upon receiving the balance payment of Rs.25,000/-, he entrusted it to Azad Singh from whose drawer the recovery has been made in the presence of the raiding party. Reference has also been made by the State counsel to the observations made by the learned Additional Sessions Judge, Gurugram in para 6 of the

order, Annexure P-3, whereby the bail petition of the petitioner was declined. As per her instructions, FSL report is awaited, the complainant is yet to be examined and the prosecution possesses sufficient incriminating material to nail the petitioner.

Having considered the submissions made by counsel for the parties, this Court is prima facie of the view that the complicity of the petitioner in the crime would remain controvertible before the Trial Court and the petitioner, who is in custody for the last more than seven months, deserves to be enlarged on bail as the prosecution evidence is at the threshold.

Without adverting the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail during the pendency of trial on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)  
JUDGE

06.06.2022  
*Kamal*

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|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |