

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

CRM-M-4217-2022
Date of decision: 23.02.2022

Ayush Bhalla

...Petitioner

Versus

Central Bureau of Investigation, Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. N. S. Shekhawat, Sr. Advocate with
Mr. Aayush Gupta, Advocate
for the petitioner.

Mr. Sumeet Goel, Sr. Advocate with
Mr. A. K. Ranolia, Advocate
for the respondent-CBI.

Mr. Sandeep Jain, Advocate
for the complainant.

(Through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR No. RCCHG2018A0017 dated 14.08.2018, registered under Section 7A of the Prevention of Corruption (Amendment) Act, 2018 (Section 120B IPC added later on) at Police Station CBI, ACB, CHG, District Chandigarh.

The operative part of the order dated 02.02.2022, vide which the petitioner has been granted interim bail, is reproduced below:

“Learned senior counsel for the petitioners submits that a complaint was given by Shiv Kumar Sharma, retired SSP, Punjab Police, against Gurinder Singh Dhillon, the then IGP, Ferozepur Range, Punjab and one Ashok Goyal for demand of bribe for giving him a clean chit in FIR No. 184 dated 23.08.2012, registered under Sections 167, 211, 355, 506 of the IPC and for returning the documents

seized from his residence.

Learned senior counsel further submits that the complainant, while posted as SSP, Vigilance Bureau, Patiala Range in March, 2007, an FIR No. 9 of 2006 was registered against one Mohan Singh, Patwari and he was arrested by the Punjab Police State Vigilance Bureau, Ferozepur in another FIR No. 1 dated 11.01.2012 in some paddy scam case. Later on, Mohan Singh, Patwari got the aforesaid FIR No. 184 registered against the complainant and others and during investigation of the said FIR, Gurinder Singh Dhillon, the then IGP, Ferozepur had constituted an SIT and has taken in possession certain documents, qua which, it is alleged that the demand was raised on behalf of the IGP, Ferozepur.

It is further argued that thereafter, co-accused Ashok Goyal was arrested in a trap while accepting Rs. 5 Lakh and later on, he was granted default bail under Section 167(2) Cr.P.C. as the challan was not presented within time.

Learned senior counsel further submits that even till date, despite the lapse of a long time, challan has not been presented. It is further submitted that the petitioners, who were stated to be with aforesaid Ashok Goyal when he met with IGP, were in fact kept in illegal custody by the CBI from 16.08.2018 to 18.08.2018 and in this regard they have filed CRM-M-39482-2018 and CRM-M-37001-2018 for protection and Gurinder Singh Dhillon has also filed CRM-M-38570-2018 and all the three petitions were clubbed and decided together by passing the following order:

“...By considering the arguments advanced by learned counsel for the parties and on perusal of documents available on the file, the link evidence appears to be missing as there is no connectivity of the facts to attract the provisions of the Act, 2018. The twin requirement of demand and acceptance of bribe amount is missing as in the present case, the amount of bribe has not been accepted by the petitioner and the same has been alleged to be given to said alleged conduit. Alleged bribe amount has been shown to be paid in two parts and the message in this regard was also sent on whatsapp by the alleged conduit to the petitioner. It has also come in the arguments raised by learned senior counsel for the petitioner that said conduit was in custody of CBI and message was sent on whatsapp of the petitioner on asking of the CBI. Meaning thereby, requirement of demand and acceptance of bribe amount is not fulfilled. Only the presumption is there that the amount was kept in brief case. Said alleged amount has not been shown to have been accepted by any person. The conversation between the alleged conduit and the petitioner through

whatsapp message has been shown to be in connivance with the petitioner. All these things are required to be carefully inquired/scrutinized after taking into consideration the facts and circumstances of the case as pointed out by learned counsel for the parties.

Accordingly, after considering the submissions made by learned counsel for the parties, facts as mentioned above and the law position explained above, the present petition deserve to be allowed. The matter be got investigated further by Special Investigating Team (SIT) headed by a senior officer in the rank of Superintendent of Police.

Accordingly, Director, CBI is directed to constitute a SIT for the said purpose. The SIT is also directed to conclude the investigation within a period of four months. The Registry of this Court is also directed to hand over the complete record of the case including the petition filed by the petitioner, replies filed by all the parties including status report from time to time to the office of Director, CBI, Chandigarh for further handing over the same to the SIT.

It is also directed that in case any incriminating evidence is collected against the petitioner and the investigating agency comes to a conclusion that he is involved in any manner, he be given an advance notice of seven days. However, the petitioner is also directed to appear before the SIT as and when required as a witness or otherwise. It is also directed that in case the investigating agency comes to the conclusion after thorough investigation that the petitioner is involved in commission of any offence, an appropriate sanction from the State Government be sought before proceeding further.”

It is further argued on behalf of the petitioners that in the aforesaid order, it is observed that the requirement of demand and acceptance of bribe amount was not fulfilled qua the petitioners and, therefore, in order to ascertain the facts C.B.I. was directed to constitute an SIT to complete the investigation within a period of four months from the date of passing of the order, however, till date, the investigation is not complete, though it was also directed that in case any incriminating evidence is collected against the petitioners, they will be given an advance notice of 07 days.

Learned senior counsel further submits that the report of the CFSL was received way back on 23.05.2019, which according to the petitioners is the last evidence collected by the CBI and even thereafter, they were called to join investigation as witness. It is further submitted that till date, there was no effort by the CBI to

implicate the petitioners as accused, rather they were being summoned as witnesses in the year 2020 and 2021.

Learned senior counsel, appearing for the respondent-CBI, has submitted that it has come in the investigation that Gurinder Singh Dhillon, the then IGP, Ferozepur had fixed a spy cam (wifi) in his office and the memory card was seized by the CBI, which reveals that Ashok Goyal, Ayush Bhalla and Satdev Jindal were found talking to Gurinder Singh Dhillon regarding the matter of complainant. Later on, the mobile phone of the complainant was also seized vide post trap memo and it was found containing recordings of meetings of complainant with Ashok Thapar, Ashok Goyal, Ayush Bhalla and Satdev Jindal. It is stated in the reply that specimen voice samples of accused Satdev Jindal were obtained and vide CFSL report dated 23.05.2019, it is opined that it was the probable voice of Satdev Jindal. It is further stated that Ashok Goyal was arrested while accepting Rs. 5 Lakh from the complainant and the accused were the part of the conspiracy hatched by Ashok Goyal to extract bribe from the complainant.

On a Court query, learned senior counsel for the CBI submits that as of now the evidence collected against the petitioners is only of conspiracy with co-accused Ashok Goyal, who was arrested and has already been granted the concession of bail.

It is further submitted that during investigation by the SIT, the voice sample of Gurinder Singh Dhillon was sought and the trial Court has allowed the same and he has filed CRM-M-6947-2021 challenging the said order and this Court has granted interim stay and the same is pending for 23.02.2022 along with another petition filed by complainant Shiv Kumar Sharma for release of certain articles.

Learned senior counsel for the CBI further submits that vide order dated 08.01.2019, though a time bound direction was given by this Court, however, in view of the aforesaid circumstances, extension of time was sought by the CBI to complete the investigation and it has been granted from time to time and the last request made is pending adjudication.

List again on 23.02.2022.”

Learned counsel for the petitioner submits that the petitioner, in pursuance to the order dated 02.02.2022, has already appeared before the SHO/Investigating Officer and has joined the investigation.

Learned senior counsel appearing for respondent-CBI, on

instructions from the Investigating Officer, assisted by learned counsel for the complainant, has not disputed the factual position and submits that the petitioner has joined the investigation. Learned senior counsel, on the basis of the reply filed before the Court of Sessions, further submits that the custodial investigation of the petitioner is required for proper investigation of the case.

After hearing learned counsel for the parties, the present petition is allowed and the interim bail granted to the petitioner, vide order dated 02.02.2022, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

However, it will be open for the Investigating Officer to call upon the petitioner to join investigation, if it is still required, by issuing him a written notice in this regard.

23.02.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No