

204-2

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.9223 of 2021 (O&M)
Decided on: 17.03.2022

Deepak Kingar and another

....Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Sanjiv Gupta, Advocate
for the petitioners.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners pray for grant of anticipatory bail in FIR No.0480 dated 22.12.2020, registered under Sections 420 IPC and 3, 13-A of the Punjab Gambling Act, 1867 and Section 21 of the NDPS Act, at Police Station Zirakpur, District S.A.S. Nagar, Mohali.

The operative part of the order dated 03.03.2021, vide which interim anticipatory bail has been granted to the petitioner, is reproduced as under:-

“....Counsel for the petitioners has argued that as per the allegations in the FIR, registered at the instance of Harsh Mohan, he along with other police officials were present on a patrol duty, when they received a secret information that the petitioners who are brothers are committing the offence of doing cheating/gambling on a cricket match in a rented house/Flat No.193 Sigma City, Zirakpur and are using their mobile phones, laptop, LCD, etc. and they are also habitual of keeping intoxicant

substance. Upon receiving the information, a ruqa was sent to the police station and thereafter, a raid was conducted and both the petitioners were apprehended and from their possession, 22 intoxicant injections along with 300 gm of intoxicant powder was recovered. It is further submitted that the petitioners are in custody since 22.12.2020 and they have been falsely implicated in the present case.

Counsel for the petitioners has referred to the transcription of the mobile conversation between Prem Singh Bisht, who did the recording, Baljinder Singh Chatha (I.O.) and both the present petitioners namely Amit Kinger and Deepak Kinger.

Some of the transcriptions are reproduced below for a reference:-

“Transcript No.1 (10 seconds)

Prem – Is there any grudges against him?

I.O. – Yes

Prem – Police knows that there is no such activity, then what grudges do these offices have? Is the same only about money?

I.O. – It is about money and also

Transcript No.2 (38 Seconds)

I.O. – What

Prem – If he surrendered

I.O. – Yes

Prem – Then whether the bail will not be granted after surrendering. Just asking for normal knowledge.

I.O. – Will have to go to jail.

Prem – and thereafter bail will not be granted?

I.O. – then

Prem – Then it will take time

I.O. – If he will surrender them

Prem – then

I.O. – Then there would apprehension of planting of chitta upon him

Prem – Yes, chitta will also be planted upon him

I.O. – Bail will be done. I had talked with Saggu. 100% Bail will be done.

Prem – Directly anticipatory bail will be filed

I.O. – Yes

Prem – Then thereafter, he will not be arrested.

I.O. – no, then he will come to us to join investigation.

Prem – Hmm

I.O. – On that day, advocate will come with you. He will come along with him, with Advocate, there is nothing in that

Transcript No.3 (28 Seconds)

I.O. – It is fine na

Prem – hmm hmm

I.O. – What do you think?

Prem – absolutely good-good

I.O. – The said system is over. It is only about money. He wants money.

Prem – Yes-yes that's it

I.O. – he wants to get money, ask him to settle for Rs.2.5 lacs, give him and settle it.

Prem – Oh I, Oh leave 2.5”

Counsel for the petitioners has also submitted that it is apparent from the transcription that the Investigating Officer, who was openly demanding money and was threatening to plant Chitta (narcotic substance) and in one of the transcription, the petitioners were asked to pay a sum of Rs.2.5 lacs to settle the dispute. In further transcription which are not reproduced again for the sake of brevity, even the name of 02 DSPs comes that they are also demanding the money. It is further submitted that even in subsequent transcription which continued between the parties, it is apparent that the petitioners have been falsely implicated as the offence under Gambling Act is bailable.

Counsel for the petitioners has also relied upon another transcription, in which the Investigating Officer told them that his officers plant 11 injections of 10-10 ml each so that it becomes 110 ml which is commercial in nature and similar is with regard to the intoxicant powder. During the conversation, it was also stated by the Investigating Officer that if the amount is paid, the recovery may be of a non-intoxicant powder, which will be declared non-intoxicant as per the Chemical Examiner Report.

Counsel for the petitioners has further argued that one suspect Vikas has already filed CRM-M No.3912 of 2021, relying upon the aforesaid transcription and prayed

for an investigation by CBI and notice of motion has been issued for 15.03.2021.

Counsel for the petitioners lastly, argued that even a representation has been given to the Senior Superintendent of Police, S.A.S. Nagar, Mohali, by aforesaid Vikas for protecting their life and liberty and conducting the fair investigation of the present FIR.

Counsel for the State could not dispute the contents of the FIR, however, opposed the prayer for bail.

List again on 27.04.2021.

Considering the serious allegations of false implication, demand of money and assurance given by the Investigating Officer that he will manage bail from the Court, the Additional Director General of Police Bureau of Investigation, Punjab is directed to constitute an SIT from outside S.A.S. Nagar, Mohali to be headed by Senior Police Officer not below the rank of Superintendent of Police to verify the allegations of the petitioners based on telephonic conversation and upon verification of all the facts, will submit the affidavit and the action taken in this regard on or before the adjourned date.

Till the next date of hearing, the petitioners are directed to be released on interim bail subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

The Senior Superintendent of Police, S.A.S. Nagar, Mohali, is further directed to ensure that liberty and liberty of both the petitioners is protected and they are not put under any pressure by the police officials named in this petition.

Notice of motion for 27.04.2021....”

Counsel for the petitioners has submitted that, in pursuance to the order dated 03.03.2021, the petitioners have appeared before the Investigating Officer and has joined the investigation.

Counsel for the State, on instructions from the Investigating Officer, has not disputed the aforesaid fact and submits

that the petitioners are no more required for further investigation and challan stands presented.

In view of the above, this petition is allowed and the interim bail granted to the petitioners vide order dated 03.03.2021 is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

(ARVIND SINGH SANGWAN)
JUDGE

17.03.2022
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No