

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-13261 of 2022

Date of decision: 30th March, 2022

Hardeep Lal

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sanjeev Duggal, Advocate for the petitioner.
Mr. Amit Mehta, Senior DAG, Punjab.

AVNEESH JHINGAN, J (Oral):

This is a second petition seeking anticipatory bail in FIR No. 30 dated 1.12.2021, under Section 7 of the Prevention of Corruption Act, 1988 and Sections 341, 384 and 120-B IPC, registered at Police Station Vigilance Bureau, Range Jalandhar.

The first petition under Section 438 Cr.P.C. was dismissed by this court by a reasoned order dated 6.1.2022. The order is reproduced below:

“Due to COVID-19 situation, the Court is convened through video conference.

This petition under Section 438 Cr.P.C. is filed seeking anticipatory bail in FIR No. 30 dated 1.12.2021, under Section 7 of the Prevention of Corruption Act, 1988 and Sections 341, 384, 120-B IPC, registered at Police Station Vigilance Bureau, Range Jalandhar, District Jalandhar.

The case was registered at the instance of Sharanjit Singh. The complaint was investigated by the Vigilance Bureau. As per the facts narrated in the FIR, four to five years

back the complainant was consuming narcotic substances but for the last 2-1/2 years was on his track for rehabilitation and was taking medication from De-addiction centre. On 11.11.2021, while driving motor cycle bearing registration No. PB08-AZ-5137, he was stopped by a police official in civil dress. He along with his motor cycle and phone was taken to Police Post Jandu Singha. At the Police Post, another police official-Hardeep Lal (petitioner) in civil dress threatened that the complainant would be implicated in a drug case regarding recovery of 40 grams of intoxicant powder. A sum of Rs.60,000/- was demanded as bribe. He was taken to the ASI-Sukhdev Singh Incharge of the Police Post, he demanded Rs.25,000/-. At 7.00 PM, he was allowed to leave the Police Post and his mobile and motor cycle were kept. The ASI directed him to bring Rs.25,000/- on the next day and take back his mobile and motor cycle. On 19.11.2021, the complainant along with his wife went to the Police Post with a recorder. The wife of the petitioner managed to record the conversation between her, ASI and the petitioner demanding Rs.25,000/-. The deal was struck for Rs.20,000/-.

Learned counsel for the petitioner submits that it is a case of false implication. The FIR is based upon an audio recording and the petitioner is ready to give his voice sample. The contention is that there is delay in lodging the FIR as the recording is of 19.11.2021, whereas the FIR was registered on 1.12.2021.

Learned counsel for the State appearing on advance notice on instructions from Inspector-Rajwinder Kaur opposes the prayer for grant of pre-arrest bail. He submits that the Vigilance Bureau on receiving the complaint raided the police post. The mobile and motor cycle belonging to the complainant were recovered. On enquiry from the ASI, he produced a packet of smack stating that this was the recovery of the contraband from the complainant but no FIR was registered.

The submission is that thereafter on the statement of the complainant, the present FIR has been registered. The petitioner is a police official and there is every chance of his influencing the complainant. He further relies upon the fact that these are not mere allegations, there is recording produced by the complainant. The contention is that there is enough material against the petitioner to show his active participation in the incident. He further relies upon the fact that petition for anticipatory bail of the co-accused was dismissed by this Court on 22.12.2021.

It would not be appropriate for this court at the stage of considering the anticipatory bail to deal with the merits of the case and the defence raised by learned counsel for the petitioner. Suffice to say that the raid by Vigilance Bureau and recoveries made prima facie lends support to the allegations made by the complainant. Apart from the allegations, there is recording produced. Considering the official status of the petitioner, there would be an apprehension that the complainant or the witnesses could be influenced. A deeper probe is required.

No case is made out for grant of anticipatory bail.

The petition is dismissed.”

The second petition was filed before the Sessions Court relying upon an affidavit dated 5.1.2022 given by the complainant, the petition was dismissed.

Learned counsel for the petitioner submits that the observations by the Sessions Court “*the placing on file the affidavit of complainant dated 5.1.2022 is clearly suggestive of the fact that accused is pressurizing/ influencing the complainant*” while dismissing the second petition are without any basis. He further submits that due to change in circumstances in view of the affidavit furnished by the complainant, second petition for

anticipatory bail is maintainable.

Heard learned counsel for the parties and perused the record.

The petitioner is a Constable in Police. The allegations made are serious. A person who had de-addicted himself from consumption of drugs, the shadow of his past was being utilized by the accused not only to harass him but to involve in false cases under the Narcotic Drugs & Psychotropic Substances Act, 1985. While dismissing the earlier petition for anticipatory bail, it was specifically recorded by this Court that considering the official status of the petitioner, there would be an apprehension that the complainant or the witnesses could be influenced.

The Sessions Court may not have happily worded the observations made against the petitioner. The fact remains that the petitioner, in spite of being a member of disciplinary force, is absconding since dismissal of his first petition for anticipatory bail from Sessions Court and this Court as well. Furnishing of affidavit of the complainant establishes that the petitioner was in touch with the complainant.

Considering the facts and circumstances in totality and the conduct of the petitioner, the petition is dismissed with costs of Rs.20,000/-.

[AVNEESH JHINGAN]
JUDGE

30th March, 2022

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1. Whether speaking/ reasoned	:	Yes /No
2. Whether reportable	:	Yes /No