

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

211

CRM-M-14971-2022

Date of Decision: 08.09.2022

Mohd Idrish

...Petitioner

Versus

Union Territory, Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. K.S.Dadwal, Advocate, for the petitioner.

Ms. Simsi Dhir Malhotra, APP, UT, Chandigarh,
assisted by ASI Moti Lal.

Mr. Arpandee Narula, Advocate, for the complainant.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No.42 dated 17.3.2022, Police Station East Sector 26, District Chandigarh, under Sections 384, 420, 341, 120-B of Indian Penal Code.
2. At the time of issuance of notice of motion on 08.04.2022, this Court passed the following detailed order:

“The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.42 dated 17.3.2022, Police Station East Sector 26, District Chandigarh, under Sections 384, 420, 341, 120-B of Indian Penal Code.

The allegations, in nutshell, are that the petitioner, who had been allotted a contract for managing parking in Sector-26, Grain Market, Chandigarh on 14.8.2020 w.e.f. 15.10.2020 upto 14.10.2022, had been committing various irregularities and had been fleecing people. It is alleged that although as per the contract, the job of the petitioner was to

manage the parking in the parking area in Grain Market, Sector-26, Chandigarh but he had been virtually collecting an 'entry fee' instead of 'parking fee' and, as such, any person, who had to enter the said area, was required to pay the amount. It is further alleged therein that the petitioner had been illegally permitting the 'rehri walas' to park their 'rehries' in the area meant for parking of vehicles and had been charging huge amount from said persons.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case at the instance of his competitors, who were nursing some kind of grudge against him. It has further been submitted that although allegations have been levelled to the effect that he had been charging entry fee and but infact this is the standard practice in the other parking areas in U.T., Chandigarh i.e. in Sectors 17 and 22 as well. Learned counsel has further submitted that, in any case, if there is any violation of condition of the contract in charging the fee, the same would at best attract some kind of civil liability and that lodging of the FIR is an abuse of process of law.

Learned counsel for the petitioner has further submitted that infact it is a group of persons, who are all out to cause damage to the business of the petitioner and that as many as 3 different attempts have already been made by way of filing writ petitions against the petitioner pertaining to same parking contract. It has further been submitted that although the petitioner admits that parking fee is being collected in Grain Market, Sector 26, Chandigarh at the time the vehicle enters the Grain Market Area and it is only the slip, which is being collected back at the time the vehicle exits the said area and which strictly is not as per the terms of the contract but the same is the practice everywhere in Chandigarh and regarding which a writ petition is already pending.

Notice of motion for 18.8.2022.

At this stage, Mr. Arpandeep Narula, Advocate has put in appearance on behalf of the complainant and has filed Vakalatnama, which is taken on record.

Learned State counsel assisted by learned counsel for the complainant has vehemently argued that since it is a case where the petitioner had been fleecing innocent persons and had been collecting huge amount

from the 'rehri walas' by illegally permitting them to park their 'rehries' within the parking area, he does not deserve the concession for grant of bail.

Having considered aforesaid submissions, it is ordered that, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

3. Learned counsel representing the UT Chandigarh upon instructions has informed that pursuant to interim directions issued by this Court, the petitioner has since joined investigation and is not required for any custodial interrogation.
4. Learned counsel for the complainant has, however, vehemently opposed the petition and has submitted that the petitioner has neither got recovered any amount collected by him, nor is coming out with the names of the officials of the Market Committee, who would have apparently connived with him in the entire scam. Learned counsel has further submitted that in fact an attempt is being made to shift the entire responsibility upon Jarnail Singh, who after taking retiral benefits, has migrated to Australia. A prayer has, thus, been made for dismissal of the petition.
5. This Court has considered rival submissions addressed.
6. The allegations are broadly to the effect that the petitioner had been collecting 'entry fee' in the Grain Market, Sector-26, Chandigarh, whereas he was entitled to collect 'parking fee' only and that too at limited sites, whereas he was collecting the same at 8 entry gates of the

Mandi. The case would mainly be based on documentary evidence, which could suggest as to whether the petitioner had been authorized to collect such 'entry fee' for a particular area or not. In any case, the petitioner is stated to have joined investigation and is not required for any kind of custodial interrogation. In these circumstances, the instant petition is accepted and the interim directions issued by this Court vide order dated 08.04.2022 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

08.09.2022

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**(GURVINDER SINGH GILL)
JUDGE**

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