

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

CRM-M-20787-2021 (O&M)

Reserved on: 23.09.2022

Pronounced on: 28.09.2022

Rajdeep Singh

....Petitioner

Versus

Union Territory, Chandigarh

Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. R.S. Rai, Senior Advocate, with
Mr. Kunal Dawar, Advocate and
Mr. Karan Pathak, Advocate, for the petitioner.

Mr. Rajeev Anand, AAP, U.T., Chandigarh.

HARNARESH SINGH GILL, J.

By way of the present petition, the petitioner seeks grant of regular bail in case bearing FIR No. 63 dated 02.03.2021 under Sections 452, 331, 344, 365, 386, 419, 420, 465, 467, 468, 471, 473, 474, 477, 120-B IPC (challan presented under Sections 452, 331, 344, 365, 386, 419, 420, 465, 467, 468, 471, 473, 474, 477, 120-B IPC, 166, 201, 218, 328 IPC and Sections 7 and 13(1)(2) of the Prevention of Corruption Act, 1988, registered at Police Station Sector-39, Chandigarh.

Mr. R.S. Rai, Learned Senior Counsel, appearing for the petitioner would submit that the FIR in this case was registered on 02.03.2021; the challan was presented on 29.04.2021; supplementary challan was presented on 06.08.2021 under Section 7 of the Prevention of Corruption Act;

that charges against the petitioner have been framed on 28.01.2022 only under Sections 166 and 218 IPC; under Sections 13(2) of the Prevention of Corruption Act read with Section 120-B IPC, whereas the charges framed under Sections 8 and 12 of the Prevention of Corruption Act, are against co-accused Sanjeev Mahajan. It is yet further submitted that the charge has not been framed against the petitioner under any punishing Section; that the petitioner has been in custody since 15.03.2021; that in any case, in order to bring home the guilt on the part of the petitioner, the charges ought to have been framed either under Section 13(1) or under Section 7 of the Prevention of Corruption Act; that there are no such charges framed; that though the prosecution had filed the challan under Sections 7 and 13(1)(2) of the Prevention of Corruption Act, yet the charges have not been framed under any of the said Sections and that there being no effective charge(s) against the petitioner, his further incarceration, is legally unsustainable.

Learned Senior Counsel would further submit that co-accused Daljit Singh Rubbal, was granted interim bail by the trial Court, vide order dated 21.05.2021; that the bail of the said accused was conceded by the prosecution with an oblique motive to frame the petitioner; that after his release, said Daljit Rubbal made a statement on 24.05.2021, to the effect that he had, at the instance of co-accused Sanjeev Mahajan, given a bribe of Rs.5 Lakh to the petitioner in the year 2018; that thus, the first version against the petitioner surfaced only on 24.05.2021; that the charge sheet was accordingly, filed against the petitioner on 29.04.2021; that the supplementary charge

sheet, by adding Section 7 of the Prevention of Corruption Act, was filed against the petitioner on 6.08.2021.

It is further submitted that in this case, no recovery was effected from the petitioner and if the allegations of the prosecution were to be taken to have any substance, then charge under Section 8 of the Prevention of Corruption Act, ought to have been framed against him as well. It is further submitted that the petitioner is not a beneficiary of any of the transactions relating to House No. 340, Sector 37-A, Chandigarh (the house belonging to the mother of Rahul Mehta). It is pointed out that co-accused Satpal Dagar, Manish Gupta, Saurabh Gupta and Arvind Singla, have already been granted the concession of bail by the Coordinate Benches of this Court.

Mr. Rai, further submits that as per the provisions of the Prevention of Corruption Act, a bribe taker and bribe giver, both are accused and therefore, Daljit Singh Rubbal, who allegedly gave bribe to the petitioner, should also be booked.

On the other hand, Mr. Rajeev Anand, APP, U.T., Chandigarh, while vehemently opposing the prayer for bail, would submit that the petitioner is the kingpin of the entire crime; that he had hatched the entire conspiracy with the co-accused so as to usurp and grab the prime property (i.e. House No. 340, Sector 37-A, Chandigarh) belonging to the mother of Rahul Mehta; that initially, when some mischievous elements were noticed by Pandit Sita Ram Rattan (former SSP), he had given a complaint to the Police Station Sector 39, Chandigarh to

the effect that Rahul Mehta, was being tortured and harassed by co-accused Sanjeev Mahajan and others, but the petitioner being incharge of the Police Station, did not take any action against the culprits; that later on as the incident unfolded, it was revealed that Rahul Mehta, went missing at the behest of the co-accused; that though the petitioner had recorded a DDR on 14.01.2017 regarding the missing of Rahul Mehta, yet as the entire Police Station was under his control and supervision, no efforts were made to locate the whereabouts of Rahul Mehta. Mr. Anand argues that had the petitioner taken timely and swift action into the matter, the entire occurrence, could have been averted and that as a matter of fact, the petitioner had not only failed to discharge his duties, but he had rather misused his official position and that all the co-accused had executed the entire occurrence at his behest and protection.

It is yet further submitted that one Amit Gupta, who runs a Chemist Shop, and whom Rahul Mehta, used to visit and share his things, had been picked up at the instance of the petitioner and other co-accused; that he had been tortured by the police and given a third degree treatment on the allegations of having kidnapped Rahul Mehta. It is, thus, submitted that the said modus operandi, is the brain-child of the petitioner, who had been hobnobbing and conspiring with the co-accused to usurp the house of the mother of Rahul Gupta.

On the point of non-recovery of the bribe amount from the petitioner, the learned APP, would argue that Daljit Singh Rubbal in his statement had specifically pointed out the

mode and manner of handing over the bribe to the petitioner and, therefore, the petitioner cannot derive any benefit of the fact that no recovery was effected from him.

It is yet further submitted that Rahul Mehta, is a vulnerable witness; that the defence wants to term the said witness as mentally unstable and in this regard, an application moved by the defence, was also declined by the trial Court and that the deposition of Rahul Mehta, is yet to be recorded by the trial Court and in case, the petitioner is released on bail, he would make all out efforts to either win over or tamper with the evidence.

While referring to the Hon'ble Apex Court judgment in Jagjeet Singh and others vs. Ashish Mishra @ Monu & Another, 2022 SCC Online SC 453, it is argued that while considering the rights of an accused for bail, it must be ensured that the victim' or the State are not denuded of their right to oppose such a prayer.

Mr. Rai, vehemently counters the submission made by Mr. Anand and submits that as a matter of fact, the DDR on 14.01.2017 was recorded by some junior non Gazetted police officer and not the petitioner and that, therefore, the petitioner cannot be said to not have taken any action in the matter, deliberately or purposely.

I have heard learned counsel for the parties.

It is conceded position that the charges against the petitioner have been framed under Sections 166 and 218 IPC

and under Section 13(2) of the Prevention of Corruption Act read with Section 120-B IPC, whereas the charges framed under Sections 8 and 12 of the Prevention of Corruption Act, are against co-accused Sanjeev Mahajan. The petitioner's role as a key conspirator in the matter is to be determined during the trial, on the basis of evidence led and the same cannot be either gone into or adjudicated upon by this Court, in the present bail matter. The petitioner has been in custody for 15.03.2021. Co-accused Satpal Dagar, Manish Gupta, Saurabh Gupta and Arvind Singla, have already been granted the concession of regular bail.

Though learned counsel for the U.T., Chandigarh, lays emphasis on the non-examination of Rahul Mehta and apprehends that if released on bail, the petitioner would make all out efforts to either win over the said witness or tamper with the evidence, yet this Court has been informed that said Rahul Mehta, is police protection.

In view of the above, without expressing any opinion on the merits of the case, lest it should prejudice the case of either side, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing surety/bail bonds to the satisfaction of the Trial Court.

28.09.2022
ds

(HARNARESH SINGH GILL)
JUDGE

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