

CRM-M-37053 of 2022

[1]

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37053 of 2022

Date of Decision: 22nd August, 2022

Vikas @ Vicky

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Dr. P. S. Girwar, Advocate for the petitioner.
Ms. Geeta Sharma, DAG, Haryana.

AVNEESH JHINGAN , J.(Oral)

This is a petition seeking anticipatory bail in FIR No. 436 dated 13.7.2022, under Sections 120B, 170, 419 and 420 IPC and Sections 7 and 8 of the Prevention of Corruption Act, 1988 registered at Police Station Sadar Bhiwani.

As per the case set up, the police party received a secret information on 13.7.2022 with regard to fake Home Guard personnel working at the spot. A written complaint was made alleging that one person-Parveen in collusion with other employees of the Home Guards was working in place of Amit at Bhiwani-Dadri road. The police party acted upon the information and at village Prahladgarh, two employees on rider No. 11 vehicle No. HR-16Q-4604 were checked. One disclosed his name as Roshan Lal and the other as Amit. To get his identity verified, Amit showed his Aadhaar Card having name of Parveen. He disclosed that he was doing the job in place of Amit for the last 2 -1/2 years. Further that he

was acquainted to Vikas @ Vicky (petitioner), Home Guard No. 215. The petitioner told him that Ram Niwas (a volunteer) was having liaisons with higher officers of Home Guard and petitioner received Rs.1,70,000/- and Rs.20,000/- from him and Rs.20,000/- was yet to be paid for doing job in place of Amit. Parveen and Amit were arrested. Amit got recovered the mobile phone.

Learned counsel for the petitioner submits that the petitioner was not named either in the secret information or in the FIR, he was named in the disclosure statement of Parveen. There is no evidence against the petitioner, connecting him with the alleged incident. He relies upon the fact that co-accused Ram Niwas was granted interim anticipatory bail. He also relies upon the photograph and the pen drive annexed with the petition.

Learned counsel for the State appearing on advance notice opposes the prayer for grant of anticipatory bail. She submits that the allegations are serious. There is impersonation of Home Guard for performing duty and it has far reaching effect as there is safety threat to the public and the routine patrolling done by the police is affected.

The observations made hereinafter shall not be construed as an expression of opinion on the merits of the case. These are made only for the purpose of deciding the anticipatory bail petition.

The allegations against the petitioner by the co-accused are specific. The evidentiary value of the disclosure statement would be subject matter of trial. As per the case set up, there is a well oiled machinery working to ensure that impersonators are performing duty for employed Home Guards. There are specific allegations that the petitioner received

Rs.1,90,000/- from Parveen, who was caught at the spot. In the cases having allegation as in the present case, it is not possible that every accused would be named in the FIR. There is no parity between the petitioner and the co-accused Ram Niwas. While granting interim anticipatory bail to Ram Niwas, it was specifically recorded that there was no money transaction with him, where as per allegations, the petitioner received money from Parveen.

The matter needs to be looked into from another angle. There are allegations against officials of Home Guard. One loose end left will ensure that relevant evidence is tampered with and the witnesses are influenced. A deeper probe is required to unearth the *modus operandi* and to find as to how far the roots are spread.

The Supreme Court in Prashant Dagjirao Patil v. Vaibhav @ Sonu Arun Pawar and another SLP (Criminal) Nos. 5038-5039 of 2020 decided on 19.1.2021 held as under:

“A perusal of the impugned order indicates that the directions regarding the CCTV footage were made by the High Court on submissions by the counsel for the Respondents-accused before the High Court that they wished to rely on the same to prove their non-participation in the alleged incident. While the learned counsel for the Respondents-accused have attempted to submit before us that such an exercise is necessary, we are not in agreement with the same. When only the limited issue of grant of regular bail to the accused is pending consideration before the High Court, it was not appropriate for it to pass the

aforesaid directions which will have a direct bearing upon the trial.

Thus, we are of the considered view that the direction of the High Court directing the Investigating Officer to examine the CCTV footage and to submit a report, is not sustainable in the eyes of law and deserves to be set aside.”

No comment is to be made on the photograph or the pen drive. There is no authorisation or certification of the pen drive and while dealing with prayer for bail, mini trial is not to be held

No case is made out for grant of anticipatory bail.

The petition is dismissed.

(AVNEESH JHINGAN)
JUDGE

22nd August, 2022.
mk

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