

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-4117-2023 (O&M)
Date of Decision:-20.2.2023

Tarun Garg ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. A.P.S. Deol, Senior Advocate with
Mr. Himmat Singh Deol, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

Mr. Mayank Goyal, Advocate for the complainant.

GURVINDER SINGH GILL, J. (Oral)

CRM-8230-2023

In view of the reasons mentioned in the application, the same is allowed and the documents annexed with the application are taken on record as Annexures P-8 to P-12 subject to all just exceptions.

CRM-M-4117-2023 (Main Case)

1. The petitioner seeks grant of anticipatory bail in respect of a case registered vide FIR No.01, dated 10.1.2023 at Police Station State Vigilance Bureau, Hisar, under Sections 7, 13(1)(b) of the Prevention of Corruption Act read with Section 13(2) of P.C. Act.

2. The FIR was lodged at the instance of Vikram Singh, wherein it is alleged that he has a contractor license and had undertaken work of installation of water pipe line from Bus Stand Village Matana to main chowk Hanuman Mandir and had spent an amount of Rs.1 lakh on the said work. The complainant alleged that when he met Tarun Garg (petitioner), XEN, Public Health Department, Fatehabad at his residence for release of payment in respect of the said bill, he demanded an amount of Rs.20,000/- and that he (complainant) paid an amount of Rs.9,000/- to the petitioner and the remaining amount of Rs.11,000/- was to be paid on 10.1.2023. The complainant claimed that he had recorded the said conversation on his cell phone. It is further alleged that on 5.1.2023, the complainant had met Deepak Revari (co-accused), SDO, Public Health Department in respect of the said bill and he also demanded an amount of Rs.8,000/- for clearance of the bill and another amount of Rs.28,000/- for clearing the previous bills and he (complainant) recorded the said conversation as well on his mobile phone. Since the matter was reported to the Vigilance Bureau, a raid was conducted. The complainant had been handed over currency notes worth Rs.27,000/- (54 X 500). The co-accused Deepak Revari was caught red handed while accepting an amount of Rs.16,000/-.
3. Learned counsel for the petitioner submitted that admittedly the petitioner was never caught red-handed and that the only allegation against him is that he had demanded bribe from the complainant and the said conversation had allegedly been recorded in the mobile phone of the complainant. Learned counsel submits that although in the FIR it is alleged that the petitioner had already received an amount of Rs.9,000/- as gratification but there is no evidence in respect of the same. It has further been submitted that the alleged

audio conversation does not clearly show that the petitioner had raised any demand for the purpose of clearing the bills and that, in any case, the authenticity of said audio conversation is yet to be established.

4. Opposing the petition, learned State counsel assisted by learned counsel for the complainant has submitted that the allegations as levelled in the FIR stand fully substantiated from the fact that co-accused Deepak Revvari was caught red-handed. It has further been submitted that the audio conversation also goes a long way to show that the petitioner was in touch with the complainant and had asked him to pay an amount of Rs.11,000/-. It has further been submitted that it is the petitioner in the capacity of XEN, who was competent to release the payment in respect of the works executed by any contractor and, as such, his complicity is clearly evident.
5. This Court has considered the rival submissions addressed before this Court.
6. It is not in dispute that it is the co-accused only, who was caught red-handed while accepting a bribe of Rs.16,000/-. It is also noticed that the petitioner is named in the FIR and is alleged to have received an amount of Rs.9,000/- from the complainant on 4.1.2023, when the complainant had met him initially. However, at this stage, there is no evidence in respect of said passing of an amount of Rs.9,000/-. The prosecution relies heavily on the audio conversation. The translated gist of the transcript annexed as Annexure R-3 with the reply filed by State is reproduced hereinunder:

“Transcript of the conversation of bribe amount transaction between the accused Tarun Garg, Executive Engineer, Public Health Department, Fatehabad and the complainant Vikram Singh, which has been recorded by complainant Vikram Singh in his Mobile recorder.

Complainant : No one is sitting here.

Complainant : Yes

Accused : come in

Complainant : I have come

Complainant : they took in a day or two

Accused : so much

Complainant : By the way, tell me one thing, the SDO Sir had given 20 to you.

Accused : Yes

Complainant : Out of which, he has kept some of it, he said, you will give or I don't know from your side.

Accused : Not at all, as your previous are also pending.

Complainant : Yes yes... let met talk about the same thing, when I gave you 20, at that time, the accused were in it, I don't know what is it now tell me how many are there.

Complainant : let it go, 10 more are made, I think out of this around thousand rupees are left and you will have 11000 rupees.

Accused : whatever are due, get him paid tomorrow.

Accused : there is no need to worry

Complainant : why the shopkeeper had a little account transaction.

Accused : Nobody, it's been a long time since you left.

Complainant : Oh... you can take it.

Accused : I will take it.

Complainant : That old one is also lying there, Ok Ji.”

7. A perusal of the aforesaid conversation would indicate that though there is some discussion between the complainant and the petitioner regarding an amount and the petitioner is recorded to have stated that whatever is due “get him paid now”. However, there is nothing recorded in the said conversation

as to for what purpose the said amount was being allegedly demanded. In any case, it is not a case where anything is to be recovered from the petitioner justifying his custodial interrogation. The petition, as such, is accepted and it is ordered that the petitioner, in the event of his arrest, be released on bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the 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.

8. The aforesaid order shall, however, be subject to the condition that the petitioner shall furnish his voice samples as and when directed.
9. It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case.

20.2.2023

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No