

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

CRM-M-10005-2023 (O&M)

Date of Decision:- 14.3.2023

Pratibha

.... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Amit Choudhary, Advocate, for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of anticipatory bail in respect of a case registered against her vide FIR No.04, dated 07.02.2023 at Police Station State Vigilance Bureau, District Karnal, under Sections 7, 7-A, 13, 13(1)(B) of Prevention of Corruption Act and Section 120-B IPC.
2. The allegations, in nutshell, as have been stated in the reply filed by the State read as under:

“On 7-02-2023, the complainant Dalbir Singh S/o Ramniwas R/o Village Alipura, Tehsil Unchana, District Jind handed over his complaint to Inspector Sachin wherein he had alleged that a case bearing FIR No. 946 of 2022 is registered against his friend Amir Singh and his family members in Police Station Old Industrial Area, Panipat wherein investigation is being conducted by the present petitioner HC Pratibha and during the investigation, on 6-2-2023, complainant along with his

friend Amir Singh and family members had gone to the office of DSP where his reader ASI Sushil Kumar (co-accused) enquired the facts from them and ASI Sushil Kumar, reader and HC Pratibha called him separately and ASI Sushil Kumar told him that he alongwith HC Pratibha would delete the section 377 of IPC from the above said FIR and would also get cleared the names of other Family members from DSP Sandeep Kumar but for that he had to pay some amount to them. Upon asking, ASI Sushil Kumar, reader told him to pay Rs. 1,50,000/- ie. Rs.50,000/- for SHO Narender, Rs. 50,000/- for HC Pratibha and remaining Rs. 50,000/- for himself and DSP Sandeep Kumar. Subsequently, the complainant paid Rs. 40,000/- to ASI Sushil Kumar, reader after taking from Amir and out of the balance amount Rs.50,000/- is to be paid to HC Pratibha and Rs. 60,000/- is to be paid to ASI Sushil Kumar today but they did not want to give the bribe money to them. Upon which the present Case FIR No. 04 dated 7-02-2023 was registered u/s 7 PC Act 1988 and 120-B IPC (section 7A, 13(1) (b), 13 (2) PC Act 1988 added subsequently) in Police Station, State Vigilance Bureau, Karnal Range, Karnal (now Anti Corruption Bureau).”

3. It is further the case of prosecution that when the complainant approached the Vigilance Bureau, a raid was planned and the complainant was handed over currency notes of Rs.1.10 lakhs after noting down the serial numbers and applying phenolphthalein powder with clear instructions to the complainant to hand over the same to the accused only upon his demand. It is further the case of

prosecution that pursuant to the said raid ASI Sushil Kumar was caught red-handed while accepting an amount of Rs.1.10 lakh from the complainant.

4. Learned counsel for the petitioner submits that it is only ASI Sushil Kumar, who is posted as Reader to Deputy Superintendent of Police, who had been in touch with the complainant and who had struck a deal with him to extend some favours to the complainant so as to get Section 377 IPC deleted in the FIR and that the petitioner had never raised any demand and the petitioner who is posted as a Head Constable is not even competent to delete the offence on his own. It has further been submitted that even the even the alleged recovery of tainted currency notes is from ASI Sushil Kumar and the petitioner was nowhere in picture and as such the petitioner deserves to be released on anticipatory bail.
5. Opposing the petition, learned State counsel has submitted that it is a case where some audio conversation between the petitioner and the complainant was also recorded which also shows that there is a reference to payment of an amount of Rs.1.05 lakhs. It has thus been submitted that the petitioner had joined hands with the co-accused for the purpose of extracting illegal gratification from the complainant and as such does not deserve the concession of anticipatory bail.
6. This Court has considered the rival submissions.
7. It is not in dispute that there is no reference of any demand made by the petitioner in the FIR and the allegations are against co-accused ASI Sushil Kumar, although ASI Sushil Kumar has represented that

the part of the said amount was to be shared by the petitioner as well. Even when the raid was conducted, it is only ASI Sushil Kumar who was found in possession of tainted currency notes. Although, some audio conversation is also stated to be there between the complainant and the petitioner, but having regard to the fact that neither the FIR indicates any demand nor any recovery was effected from the petitioner which was effected from co-accused, this Court is of the opinion that it is a fit case for grant of anticipatory bail. The petition, as such, is accepted and the petitioner in the event of arrest, be released on bail subject to her 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 Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

8. It is however, directed that the aforesaid order shall be subject to the condition that the petitioner shall furnish voice sample, as and when directed, and not threaten the complainant/witnesses, in any manner. In case, it is found that the petitioner does not cooperate for furnishing voice samples or is found to be intimidating the witnesses, it shall be open to the prosecution to move an application for cancellation of bail.

14.03.2023

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No