

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15505-2023 (O&M)
Date of Decision:- 29.5.2023

Surender ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. R.S. Rai, Senior Advocate with
Mr. Sushil Jain, Advocate for the petitioner.

Ms. Geeta Sharma, DAG, Haryana,
assisted by ASI Raj Kumar, ACB.

FIR NO.	DATE	POLICE STATION	OFFENCES
4	28.2.2023	State Vigilance Bureau, Rohtak Division, Rohtak, District Rohtak	Section 7 of the Prevention of Corruption Act, 1988

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case arising out of above mentioned FIR.
2. The case of the prosecution, in nutshell, is that on 28.2.2023, Inspector Hem Raj, Vigilance Bureau, Panipat received information that some police official was demanding bribe from Guru Dev @ Aman. A raid was immediately planned. Inspector Hem Raj accompanied by other police officials and Anil Malik, E.T.O. Panipat (independent witness) reached Gohana bye-pass, Sonapat. Complainant Guru Dev along with his maternal uncle Ashwani met Inspector Hem Raj and apprised him that complainant's

cousin Sandeep had been murdered by one Jitender on 3.2.2023 and that the Investigating Officer S.I. Surender was demanding an amount of Rs.1,40,000/- so as not to register a cross-case against them. The complainant further stated that he had told the investigating officer that he (complainant) shall send his maternal uncle Ashwani along with an amount of Rs.1 lac to him. The complainant further informed that he had also recorded the audio-conversation with S.I. Surender. As planned by the Vigilance Officials, Ashwani (complainant's uncle) and shadow witness were sent to the nominated place along with tainted currency notes. S.I. Surender came in his car bearing registration No. HR-10-4231. After a short while, Ashwani sat in car of accused S.I. Surender and had made a gesture to shadow witness when amount was demanded by accused from the complainant but the accused got an inkling of the raid and after dropping the complainant from the car sped away from the spot in his car. Although, the members of the raiding team had pounced upon the car of the accused but he managed to escape along with the bribe amount.

3. The learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that there is no evidence so as to establish that the petitioner had ever raised any demand of Rs.1.4 lacs as alleged by the complainant or that the petitioner had accepted any amount from the complainant. The learned counsel submitted that the story set up by the complainant that the petitioner fled away from the spot after taking the tainted currency notes is absolutely a cooked up story and that the petitioner was not even present at the spot. It has also been submitted that since no authenticity can be attached to the alleged audio-conversation between the complainant and the petitioner, there is nothing on record to substantiate the

case of the complainant and as such, the petitioner deserves the concession of anticipatory bail.

4. Opposing the petition, the learned State counsel has submitted that it is a case where the petitioner upon getting an inkling of the raid, just in the nick of time managed to flee from the spot along with the currency notes which had been passed on by the complainant to the petitioner. It has been submitted that there are witnesses to the occurrence including an independent witness and as such, complicity of the petitioner is clearly evident. It has also been submitted that as per the call details record/tower location in respect of the mobile of the petitioner, he was very much present at the place of occurrence. Learned State counsel has further submitted that in view of the aforestated facts, the audio-conversation cannot be absolutely discarded at this stage, even though the same would be formally proved during the course of trial.
5. This Court has considered rival submissions addressed before this Court.
6. As far as the FIR is concerned, the same does show that specific allegations have been levelled by the complainant against the petitioner with regard to the demand of illegal gratification to the tune of Rs. 1.4 lacs. When the trap was laid, the police party was accompanied by the complainant/complainant's uncle and also an independent witness i.e. Anil Malik, E.T.O. Panipat. While it is correct that the petitioner managed to escape from the spot when he got suspicious but he was very much identified by the eye-witnesses at the spot. Further, the presence of the petitioner at the spot is also corroborated from the call details record, as has

been specifically stated in Para 10 of the reply dated 10.4.2023, the relevant extract of which reads as under :-

“10. That in reply to the contents of para No. 10 of the petition, it is submitted that the petitioner wants to mislead this Hon’ble Court only on the plea that the petitioner was not present on the date of crime at the spot rather as per the mobile tower location of the petitioner bearing Mobile No.94162-33021 (CAF enclosed herewith as Annexure R-6) he was present at the place of crime at Mr. Raghuber, Prabhu Jyoti Niwas near Court Road, Sonipat (his mobile tower location is enclosed herewith as Annexure R-7) and even he had also recorded his GD entry No. 6 dated 08/02/2023 about his visit at the place of crime and after that he has not returned the police station since that time vide GD entry No. 19 dated 28/03/2023 (enclosed herewith Annexure R-8) of P.S. Kundli District Panipat.....”

7. The manner in which audio-conversation has been recorded by vigilance officials is stated in the additional affidavit dated 3.5.2023, of DSP Narender Kumar, Anti-Corruption Bureau. The relevant extracts are reproduced herein-under :-

“2(iii) That on 28-2-2023, during the raid a Govt. Mobile No.90509-10573 was provided by the investigating officer to the maternal-uncle Ashwani Kumar of the complainant whereupon a continuous phone call was started/going on by HC Balister No. 165 through his mobile No.9050964144 while visit of Ashwani Kumar to the petitioner at the time of accepting the money of bribe by him. The said live recording of discussion between Ashwani Kumar and the petitioner was done by vigilance to ascertain the existing position of both these persons. The conversation done between them were recorded which has already been presented with the earlier reply as Annexure R-2 for the kind perusal of this Hon’ble Court. Statement of Ashwani Kumar and HC Balister describing their role in the raid are enclosed with Reply as Annexure R-3 and R-4 for the kind perusal of this Hon’ble Court.

5. That during the investigation it was also ascertained that the petitioner through his mobile No.94162-33021 and the complainant through his mobile No.7988707382 have talked to each other about 22 calls from 10/02/2023 to 24/02/2023 which also clearly reveals that the petitioner was actively in touch of the complainant party.....”

8. A perusal of the transcript of the telephonic conversation which had taken place between the complainant and the petitioner, which is annexed as Annexure R-2 shows that there is demand of amount on part of the petitioner from the complainant. Even in the conversation between the complainant’s uncle and the petitioner there is a reference to transaction of money. While it is correct that such recorded audio-conversation would be required to be proved during the trial but at this stage, the same cannot be absolutely brushed aside, particularly when the tower location as well as the statements of witnesses corroborate the versions set forth in the FIR. A police officer, being a member of the disciplined force, is expected to maintain the highest standards of integrity lest there would be no law and order in the State. No special case for grant of anticipatory bail is made out.
9. The petition is sans merit and is hereby dismissed.

29.5.2023

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Whether Reportable

Yes / No

Yes / No