

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

CRM-M-16692-2023 (O&M)
Date of Decision:-17.4.2023

Dheeraj Garg ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Bipan Ghai, Senior Advocate with
Mr. Amandeep Vasisth, Advocate;
Mr. Nikhil Ghai, Advocate and
Mr. Shubham Mangla, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

FIR No.	Dated	Police Station	Section/s
408	29.9.2022	Gadpuri, District Palwal	409, 420, 120-B of Indian Penal Code read with Sections 7, 7-A, 13, 13(1) (b) of Prevention of Corruption Act.

GURVINDER SINGH GILL, J. (Oral)

1. The instant petition has been filed on behalf of the petitioner seeking grant of regular bail in respect of aforementioned FIR.
2. The allegations levelled in the aforesaid FIR are that Harish Batra, Assistant Excise & Taxation Officer (AETO) and Jitender Joon, Taxation Inspector (TI), District Palwal were on duty for roadside checking in the area of

District Palwal near Bhagola on 20.7.2021 alongwith supporting staff namely Rohtash, Driver and Ravi Kumar, Peon. It is alleged that during the course of checking, they have intercepted a vehicle bearing registration No.UP-80-DT-7407 near Bhagola Dharam Kanta and the vehicle was taken for its weighment on the said Dharam Kanta. It is further alleged that on the same day one audio clip got viral on social media, wherein there was incriminating material against both the aforesaid officials and consequently the Higher Officers of the department took cognizance of the same and Harish Batra and Jitender Joon were suspended vide order dated 30.7.2021 passed by Additional Chief Secretary, Excise and Taxation Department, Haryana and were subsequently charge-sheeted as well in departmental inquiries. Upon conclusion of investigation, it was concluded that Harish Batra, AETO, Jitender Joon, Taxation Officer, Rohtash, Driver and Ravi Kumar, Peon have used their official position in connivance with private transporter Gagan, Sanjeev and others and have made incorrect entries for the purpose of evasion of Goods and Services Tax (GST).

3. Learned counsel for the petitioner submits that the petitioner is nowhere named in the FIR and came to be nominated subsequently on the premises that despite the aforesaid scam having surfaced in July 2021, the petitioner, who was posted as Additional Excise & Taxation Commissioner, Panchkula, did not report the matter to the police for necessary action. Learned counsel for the petitioner has further submitted that, in any case, since the main accused namely Harish Batra, AETO and Jitender Joon, Taxation Inspector have already been granted anticipatory bail, the petitioner would be on a much better footing and, as such, would be entitled to grant of regular bail.

4. Learned counsel for the petitioner has further submitted that even the premises on which the petitioner is sought to be nominated i.e. the alleged omission on the part of the petitioner to report the matter to the police and to get the FIR lodged is misconceived inasmuch as the petitioner had been regularly asking for the requisite information from Deputy Excise & Taxation Commissioner, Palwal as would be evident from the letters dated 22.10.2021 (Annexures P-5), dated 10.1.2022 (Annexure P-6) and dated 18.4.2022 (Anenxure P-7). Learned counsel has next referred to letter dated 27.9.2022 (Annexure P-8) vide which the Deputy Excise & Taxation Commissioner, Palwal had submitted its report and on the basis of which the instant FIR came to be lodged on 29.9.2022.
5. Opposing the petition, learned State counsel has submitted that since it was only at the instance of petitioner that the FIR was to be lodged and there has been gross delay despite there being concrete evidence to establish the involvement of the other co-accused, it is evident that the petitioner was hands in gloves with the co-accused. It has further been submitted that as a matter of fact one of the co-accused had made a confessional statement indicating involvement of the petitioner. Learned State counsel has further submitted that there is evidence to suggest that the petitioner had amassed to wealth beyond his known sources of income, which is also indicative of his involvement in the scam in question. Learned State counsel has informed that while the petitioner has been behind bars since the last about 2 months but challan is yet to be presented. It has also been informed that the petitioner in not involved in any other case.
6. This Court has considered the rival submissions addressed before this Court.

7. It is not in dispute that the petitioner is not named in the FIR and came to be nominated subsequently on the premises that he had not taken prompt action for registration of the FIR. However, a perusal of letters dated 22.10.2021 (Annexures P-5), dated 10.1.2022 (Annexure P-6); dated 18.4.2022 (Anenxure P-7) and dated 27.9.2022 (Annexure P-8) would show that the petitioner had been soliciting the requisite information from the concerned officer, which was ultimately furnished on 27.9.2022 and it was thereafter that the FIR came to be lodged. In any case, the main accused namely Harish Batra, AETO and Jitender Joon, Taxation Inspector have already been granted anticipatory bail. The petitioner has been behind bars since the last about 2 months. The challan is yet to be presented.
8. Having regard to the aforesaid facts and circumstances, further detention of the petitioner will not serve any useful purpose as conclusion of trial is likely to take some time. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

17.4.2023

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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No