

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

CRM-M-18990-2023 (O&M)
Date of Decision:-3.5.2023

Rakesh Kumar ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Deepkaran Dalal, Advocate for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

FIR No.	Dated	Police Station	Section/s
41	27.11.2022	State Vigilance Bureau, Gurugram, District Gurugram, Haryana	7, 7-A, 13(1)(b) read with Section 13(2) of Prevention of Corruption Act, 1988 and 384 of Indian Penal Code

GURVINDER SINGH GILL, J. (Oral)

1. The instant petition has been filed on behalf of the petitioner seeking grant of anticipatory bail in respect of the aforementioned FIR.
2. The FIR in question was lodged at the instance of Haji Akbar, wherein he stated that his son was a driver by profession and had been plying truck between Rajasthan and Noida for the purpose of carrying building material. It is alleged that Shakir is a tout of the officials of the Regional Transport Office, Nuh and had been collecting huge amounts from truck drivers for the

purpose of plying their trucks. It is alleged that an amount of Rs.28,000/- per month used to be collected on monthly basis. The complainant alleged that his Manager was also forced to pay amount, which was paid through 'PhonePe' on his behalf and that several persons were involved in the same. It is further the case of the prosecution that during the course of investigation, accused Shakir was arrested and in his disclosure statement, he disclosed the names of several persons including the petitioner.

3. Reply by way of affidavit of Shri Satender Kumar, HPS, Deputy Superintendent of Police, Anti-Corruption Bureau, Gurugram has been filed by learned State counsel, which is taken on record.
4. Learned counsel for the petitioner submits that the petitioner is posted as MHC (Munshi) in the police station concerned and is nowhere named in the FIR and has been nominated as an accused on the basis of disclosure statements made by two other police officials namely Ram Babu and Mahender, who stated that they used to pay an amount of Rs.400/- daily to the petitioner, which was stated to be his share in bribe collected from the transporters/drivers. Learned counsel submits that the main accused Shakir is also alleged to have transferred an amount of Rs.19,000/- approximately to the petitioner through mobile phone over a period of about 4 months and that such like transfer can hardly be said to be an illegal gratification for the purpose of permitting the transporters/drivers to carry mining material illegally.
5. On the other hand, learned State counsel while opposing the petition has submitted that the name of the petitioner surfaced during the course of investigation and that the FIR cannot be expected to be encyclopedic and that

the involvement of other accused and the manner of commission of crime is normally known upon investigation. Learned State counsel has submitted that since an amount of about Rs.19,000/- had been transferred into the bank account of the petitioner by the main accused Shakir, his complicity is clearly evident.

6. This Court has considered the rival submissions addressed before this Court.
7. While it is correct that the petitioner is not named in the FIR but the names of all the accused in such like offences are normally not known when the FIR is lodged at the first instance and it is only upon investigation that the role and involvement of other accused would surface. In the present case, there is evidence to show that the main accused Shakir had transferred an amount of Rs.19,000/- by way of various transactions over a period of about 4 months. Two other accused have suffered disclosure statements to the effect that they had been paying an amount of Rs.400/- daily to the petitioner.
8. However, this Court further finds that the petitioner being posted as MHC (Munshi) cannot be said to have any effective role for the purpose of challaning the vehicles though his role might come in once such vehicles are actually challaned. In any case, the amount of Rs.19,000/- transferred by main accused Shakir by way of various transactions over a period of about 4 months, is not such an amount, which could be said to be part of the bribe amount under all circumstances. In these circumstances, the involvement of the petitioner would be debatable. As such, this Court does not find the instant case to be a case warranting custodial interrogation. The instant petition, as such, is accepted and it is ordered that the petitioner, in the event of 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.

9.
- It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case and have been made solely for the purpose of deciding the present case.

3.5.2023

pankaj

(Gurvinder Singh Gill)
Judge

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