

2023:PHHC:043516

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21440-2022 (O&M)

Date of Decision:- 23.3.2023

Rajan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Sanjay Majithia, Senior Advocate with
Mr. Vinay Gaur, Advocate for the petitioner.

Mr. Geeta Sharma, DAG Haryana.

GURVINDER SINGH GILL, J.

CRM-13332-2023

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 A-1 and A-2 subject to all just exceptions.

Main case

1. The petitioner seeks grant of regular bail in a case registered vide FIR No. 17 dated 9.12.2021 under Section 7 of the Prevention of Corruption Act, 1988 at Police Station State Vigilance Bureau, Gurugram, District Gurugram.
2. The FIR was lodged at the instance of Hans Raj wherein he alleged that his younger brother Sandeep @ Sindhiya who is confined in Nasibpur jail is

undergoing life imprisonment having been convicted for offence under Section 302 IPC. The complainant alleged that about one year back, his brother made a telephone call to him, as permissible under rules and informed him that Kuldeep Hooda, Jail Superintendent used to harass him and used to torture him and demanded that an amount of Rs. 1 lac be paid to him on monthly basis failing which he would be transferred to some other jail and confined in solitary confinement. Upon coming to know about the said threat, the complainant's mother sold her 1.5 acres of land for an amount of Rs. 21 lacs and the amount was deposited in her bank account. The complainant withdrew an amount of Rs. 1 lac and gave the said amount to the Jail Superintendent Kuldeep Hooda a few days before Diwali. However, complainant's brother later informed that now a demand of Rs. 5 lacs was being raised and accordingly, an amount of Rs. 4 lacs was paid to Kuldeep Hooda and another amount of Rs. 1 lac was paid to Constable Vivek. However, again on 7.12.2021, the complainant received a phone call from his brother that he had been kept confined in a Cell (Chakki) and the jail authorities were demanding an amount of Rs. 1 lac. The complainant was informed that Gaje Singh or Rajan, Hawaldar will meet the complainant outside the jail gate on 9.12.2021 between 11 a.m. to 12 noon and that the complainant should pay an amount of Rs. 1 lac to him failing which the complainant's brother will be kept in Cell (Chakki). The complainant again withdrew an amount of Rs. 1 lac from his mother's bank account. However, since he did not wish to pay the said illegal gratification to the accused, he reported the matter to the Vigilance Bureau, Gurugram. Accordingly, a trap was laid to catch the accused red-handed. The complainant was handed over currency notes, whose serial numbers had been noted down and

phenolphthalein powder had been applied to the same. As planned, Rajan (petitioner) was caught red-handed while having accepting bribe of Rs. 1 lac. The serial numbers of currency notes recovered from Rajan were tallied with the serial numbers which had already been noted down. The hands of Rajan were washed in a solution of sodium carbonate and the solution turned pink.

3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that even as per the case of prosecution, it is the co-accused i.e. the Jail Superintendent Kuldeep Hooda who had been pressurizing the complainant to give money to him while holding out threat that in case the amount is not given to him, the complainant's brother would be tortured and kept in solitary confinement. The learned counsel has submitted that no demand of any amount was ever raised on behalf of the petitioner and that he was simply asked by the co-accused to accept the amount.
4. Opposing the petition, the learned State counsel has submitted that since the petitioner was caught red-handed while accepting illegal gratification of Rs. 1 lac, his complicity is clearly evident. The learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 1 year and 1 month. It has further been informed that challan stands presented but charges are yet to be framed.
5. This Court has considered rival submissions addressed before this Court.
6. It is correct that the petitioner was caught red handed at the spot while accepting an amount of Rs. 1 lac. However, it is the case of the prosecution that the amount was actually being demanded by co-accused Kuldeep

Hooda, who had been forcing the complainant to shell out lacs of rupees while holding out threats that in case the same is not given, the complainant’s brother would be kept in solitary confinement. In any case, the petitioner has been behind bars for the substantial period of more than 1 year. Conclusion of trial is likely to consume time inasmuch as trial has not even commenced till date as charges are yet to be framed. In these circumstances, further detention of the petitioner will not serve any useful purpose as the conclusion of trial is likely to take some time.

7. 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.

23.3.2023
kamal

(Gurvinder Singh Gill)
Judge

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