

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-23337-2023 (O&M)
Reserved on: 04.09.2023
Pronounced on: 18.09.2023

Ajay Pal

... Petitioner(s)

Versus

State of Punjab

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Sant Pal Singh Sidhu, Advocate and
 Mr. Vikram Anand,Advocate
 for the petitioner(s).

 Mr. Ferry Sofat, Addl.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
18	22.09.2022	State Vigilance Bureau, Range Jalandhar, District Jalandhar	409, 420, 467, 468, 471, 120-B IPC and Sections 7, 8, 12, 13(2) of the Prevention of Corruption Act, 1988.

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 30 of the bail petition, the accused declares that he has no criminal antecedents.
3. Petitioner’s counsel argued that they have voluntarily complied with the order dated 24-08-2023. The counsel further argued that the petitioner was a contractor and not a Government servant, and that no loss was caused to the State and that his custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. The State's counsel opposes the bail and states that considering the allegations, the petitioner's custodial interrogation is necessary.

REASONING:

5. The petitioner's stand is mentioned in paras 13 to 15 of the bail petition, which read as follows,

"13. That as far as the allegations with regard to the transport works are related, it would be pertinent to mention here that while applying for the tender, the petitioner duly supplied the copies of the registration certificates of the trucks along with the verification report from the concerned website, per clause 5 (A) of the Punjab Transportation Policy, and had uploaded a list of vehicles with a total transportation capacity of more than the minimum requirement. As such the allegations levelled against the petitioner that there was a discrepancy with regard to the vehicle numbers in the list of trucks uploaded by the petitioner is totally misconceived and without any basis.

14. That during the scrutiny of documents, at the time of evaluating the technical bid, certain list of trucks was found to be inconsistent and those trucks were deducted from the list and thereafter the capacity which the petitioner could carter was of 7471 MT as against the required capacity of 6750 MT, which duly finds a mention in the order dated 22.03.2022 passed by the Director, Food, Civil Supplies and Consumer Affairs, Punjab (Annexure P-7).

15. That further it would also be pertinent to mention here that as per the Transportation Policy, 2022-23, it is not binding upon any contractor, to whom the, work is allotted to use only those trucks which are submitted at the time of applying for the tender."

6. It will be appropriate to reproduce para 5 of the reply filed by way of affidavit of the concerned DySP, which reads as follows,

"5. That it is respectfully submitted that during the course of investigation of the present case, it was transpired that the petitioner- Ajay Pal at the time of filling tender of transportation for cluster Nawanshahr 1 & 2 for the period 2022-23, had provided a joint list for both the cluster Nawanshahr 1 & 2 and as per the said list, there was total 242 vehicles, whereas at the time of filling the tender of labour/cartage of food grains for the period 2022-23 for cluster Nawanshahr, Rahon, Banga and Behram, the petitioner again provided/ uploaded joint list of vehicles and the said list contained total 419 of vehicles and these vehicles were showed to be used for transportation of wheat/paddy and on inquiry from the office of Regional Transport Officer, Hoshiarpur, it was revealed that in the said lists, there were total 92 vehicles, which could not be used for the transportation of paddy/wheat/stock and the said 92 registration numbers have been allotted to vehicles such as pickup, harvester, tractor trailer, close body truck, car carrier and oil tanker etc."

7. Thus, the petitioner mentioned that they shall use those vehicles in transportation, some of which could not be used to ferry the paddy/food-grain. The petitioner's point that the contract was just for Rs. 30 lacs, would not absolve him of the offence, as it is not a legally admissible ground to overlook corruption.

8. The State seeks custodial interrogation of the petitioner to know the names of the

persons, including Government employees, who had helped him illegally and further opposes the bail on the ground that the petitioner is not entitled even for regular bail, except on the grounds of the delay in trial, on which ground some of the accused had been granted bail one ground being prolonged pre-trial custody.

9. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

10. In **Jai Prakash Singh v. State of Bihar and another** (2012) 4 SCC 379, Supreme Court holds,

[19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. [See D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434, State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213 and Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305].

11. In **State rep. by CBI v. Anil Sharma**, (1997) 7 SCC 187, Supreme Court holds,

[6]. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.

12. In **Central Bureau of Investigation v. Santosh Karnani**, Cr.A 1148 of 2023, dated 17-04- 2023, Supreme Court, in an FIR registered under sections under Sections 7, 13(1) and 13(2) of the Prevention of Corruption Act, 1988, holds,

[24]. The time-tested principles are that no straitjacket formula can be applied for grant or refusal of anticipatory bail. The judicial discretion of the Court shall be guided by various relevant factors and largely it will depend upon the facts and circumstances of each case. The Court must draw a delicate

balance between liberty of an individual as guaranteed under Article 21 of the Constitution and the need for a fair and free investigation, which must be taken to its logical conclusion. Arrest has devastating and irreversible social stigma, humiliation, insult, mental pain and other fearful consequences. Regardless thereto, when the Court, on consideration of material information gathered by the Investigating Agency, is prima facie satisfied that there is something more than a mere needle of suspicion against the accused, it cannot jeopardise the investigation, more so when the allegations are grave in nature.

[31]. The nature and gravity of the alleged offence should have been kept in mind by the High Court. Corruption poses a serious threat to our society and must be dealt with iron hands. It not only leads to abysmal loss to the public exchequer but also tramples good governance. The common man stands deprived of the benefits percolating under social welfare schemes and is the worst hit. It is aptly said, “Corruption is a tree whose branches are of an unmeasurable length; they spread everywhere; and the dew that drops from thence, Hath infected some chairs and stools of authority.” Hence, the need to be extra conscious.

13. Considering these judicial precedents, the facts, and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make out a case for bail.

14. Any observation made hereinabove is neither an expression of opinion on the case's merits nor the court is taking up regular bail, nor the trial Court shall advert to these comments.

Petition dismissed. Interim orders, if any, stand vacated. All pending applications, if any, also stand disposed.

(ANOOP CHITKARA)
JUDGE

September 18, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No