

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25567-2023 (O&M)
Date of Decision:- 02.06.2023

Vijay Singh Dahiya Petitioner

Versus

State of Haryana (ACB) Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vinod Ghai, Senior Advocate with
Mr. Arnav Ghai and Mr. Vipin Yadav, Advocates,
for the petitioner.

Mr. Deepak Sabharwal, Addl. A.G. Haryana,
assisted by ACP Varinder Singh, Anti Corruption Bureau,
Panchkula.

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FIR No.	DATE	POLICE STATION	OFFENCES
7	20.4.2023	Anti-Corruption Bureau, Panchkula	Sections 7, 7-A of the Prevention of Corruption Act, 1988 and Sections 381, 120 IPC

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case arising out of above mentioned FIR.
2. The FIR was lodged at the instance of Rinku Manchanda wherein he alleged that he was running an educational institute under the name and style Gramin Shiksha since the last about 10 years and is a training partner under Haryana Skill Development Mission. The said Institute had been imparting training to children from poor families, in Computers, Air Conditioning, Beautician

course etc. and in respect of which an amount of Rs. 50 lacs was due to be paid to him by Skill Department, Panchkula but despite having been pursuing the same for the last about 3 years, the same had not been released to him. He met one Deepak Sharma, posted as CSO in the Skill Department, Panchkula in respect of the outstanding payments and said Deepak Sharma demanded a bribe of Rs. 5 lacs for clearing the bills. Since the bills were not cleared, the said Deepak Sharma later told the complainant that in case he wanted his bills to be cleared quickly then he should contact a lady named Poonam Chopra who is an acquaintance of Vijay Singh Dahiya, IAS, Commissioner, Haryana Skill Department, Panchkula. The complainant accordingly met Poonam Chopra in Panchkula who told the complainant that she will speak to Vijay Singh Dahiya and will let the complainant know about the position. The complainant alleged that later the said lady told the complainant that she had spoken to Vijay Singh Dahiya and that an amount of Rs. 5 lacs shall be required to be paid as bribe for clearing his bills and out of which she shall charge a share to the extent of 5%. The complainant agreed for the same. He also paid an amount of Rs. 2 lacs to Poonam Chopra. The complainant asserted that Poonam Chopra had also forwarded *WhatsApp* messages of Vijay Singh Dahiya in respect of the bills which had been cleared wherein he had informed Poonam Chopra that he had cleared the payment files. The complainant alleged that Poonam Chopra told him that in case the remaining amount of Rs. 3 lacs is not paid, then she would not allow the bills to be passed. The complainant had also recorded the audio-conversation between him and the aforesaid Poonam Chopra with respect to demand of bribe. Since the complainant did not wish to make the said payment, he reported the matter to the Vigilance Bureau on 20.4.2023.

3. It is further the case of prosecution that pursuant to receipt of aforesaid information, FIR was lodged and a trap was laid to catch Poonam Chopra red-handed. As planned, the accused Poonam Chopra was caught red-handed while accepting illegal gratification of Rs. 3 lacs from the complainant in the parking area of Sector 9, Panchkula. During the course of her interrogation on 21.4.2023, she disclosed that she had been imparting training in vocational courses for training as Plumber, Electrician and Data Entry Operator under '*Pradhan Mantri Awas Yojana*' since the last about 4 years and that it was during the said period that Vijay Singh Dahiya came to be known to her. She admitted that Rinku Manchanda had met her in respect of clearance of his bills and she had accordingly talked to Vijay Singh Dahiya for the same and a deal was struck for payment of Rs. 5 lacs as bribe for clearing the bills and that she had already received Rs. 2 lacs from the complainant and had called him on 20.4.2023 to pay the balance amount of Rs. 3 lacs. It is further the case of prosecution that Poonam Chopra got an amount of Rs. 2 lacs recovered from a drawer of a table from her office in Janakpuri, Delhi on 22.4.2023. Deepak Sharma C.S.O., Skill Department, Panchkula was arrested on 24.4.2023.
4. It is further the case of prosecution that when Poonam Chopra was caught red-handed, she disclosed that Vijay Singh Dahiya was already waiting for her and was to meet her in Caffè Tonino, Sector 8, Chandigarh where she is to hand over the bribe amount of Rs. 3 lacs to him. The raiding party accompanied Poonam Chopra to the said Caffè Tonino, Sector 8, Chandigarh at about 7:30 p.m. where Vijay Singh Dahiya was already waiting for Poonam Chopra where they sat for about an hour and had snacks. The

petitioner was issued notice to join interrogation at Headquarters of Anti-Corruption Bureau, Panchkula and was interrogated but was later let off.

5. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that there is no evidence worth credence to show that he had ever demanded or accepted any bribe, as is being alleged by the complainant and that at best the prosecution may be successful in establishing that some amount was paid by complainant to Poonam Chopra who was known to the petitioner. It had been submitted that mere factum of acquaintance of the petitioner with Poonam Chopra is not sufficient to establish his complicity particularly when the said Poonam Chopra has not even passed on any amount to the petitioner though as per the case of prosecution, she was supposed to hand over the amount of Rs. 3 lacs to the petitioner at Caffè Tonino, Sector 8, Chandigarh. The learned counsel has submitted that as a matter of fact even the Vigilance officials despite having interrogated the petitioner at length on 20.4.2023 itself could not find anything against him.
6. On the other hand, the learned State counsel, while opposing the petition, has submitted that while it may be correct that the petitioner was not caught red-handed while accepting any bribe amount but the facts and circumstances and the evidence collected by the investigating agency particularly the statement of co-accused who had been caught red handed and also the '*WhatsApp*' messages exchanged between the petitioner and co-accused Poonam and between Poonam and the complainant, clearly show that the petitioner was fully involved in demanding and accepting bribe. It has been submitted that the payment of Rs.5 lacs to the applicant/accused by the complainant Rinku Manchanda for clearance of his bills stands fully

corroborated from the record collected during investigation, the CCTV footages, statements of witnesses under Section 164 of Cr.P.C., *WhatsApp* chats and *WhatsApp* call recording.

7. The submissions advanced before this Court have been considered by this Court. The contentions put forth on behalf of the petitioner regarding his false implication do not appeal to reason. Rather, the evidence collected by prosecution during investigation points towards the complicity of the accused. The reasons which prompt this Court to observe so are stated herein under :

(i) **Credibility of prosecution version:**

The case of prosecution is that Poonam was a mediator through whom the bribe amount was to be paid to petitioner. The Vigilance Bureau had laid a trap to catch co-accused red-handed. Responsible persons were deputed with the raiding party. Dr. Kuldeep Singh, District Horticulture Officer, Panchkula was appointed as gazetted/independent witness and Sh. Pardeep Kumar Bhola, Horticulture Development Officer, Panchkula was appointed as shadow witness. The co-accused Poonam having been caught red handed on 20.04.2023 while accepting bribe amount of Rs. 3 lacs paid to her by complainant Rinku Manchanda, lends credibility to prosecution version.

(ii) **Acquaintance of petitioner with co-accused Poonam Chopra who was caught red-handed duly established:**

While it is correct that it is co-accused Poonam who was caught red-handed accepting bribe but the factum of close acquaintance of petitioner with Poonam, which is duly established further substantiates

the allegations against the petitioner that Poonam, while acting as a mediator had accepted bribe on his behalf. The *WhatsApp* chat between the applicant/accused and said Poonam Chopra on 20.04.2023 shows that accused Poonam Chopra sent the message to the applicant/accused “*Sir i can meet u at 6 pm wherever u tell me*”. The said message has been sent by her at 5:12 pm on 20.04.2023. Thereafter, she made a *WhatsApp* call to the applicant/accused and talked to him. At 5.48 p.m., the petitioner sent *WhatsApp* message to Poonam - “*Are you coming*”. Again at 6:40 p.m. on 20.04.2023, the petitioner sent a message to Poonam Chopra “*Waiting since half an hour.*” At 6:41 p.m., Poonam Chopra replied “*Where to meet*”. At 6:41 p.m., the petitioner sent a message to Poonam Chopra “*Same place Tonino*”. It may here be mentioned that ‘Tonino’ is name of a restaurant in Sector 8-C, Chandigarh. Further, the CCTV footage collected from ‘Tonino’ restaurant shows that that the petitioner spent almost one hour with accused Poonam Chopra at Caffè Tonino. It is, thus, duly established that petitioner is well known to Poonam to the extent that they visit restaurants together frequently.

(iii) **‘WhatsApp’ chat between Petitioner and Poonam shows the same to be as regards clearing of Bills:**

It is the case of prosecution that co-accused Poonam had acted as a mediator between the complainant and the petitioner for getting complainant’s bills cleared. The ‘*WhatsApp*’ chat, which had taken place between co-accused Poonam Chopra and petitioner throws light on the manner in which bills were being cleared by petitioner and who

was continuously updating Poonam Chopra about it. Some of the extracts from WhatsApp chat are reproduced herein under:

Extract from 6.4.2023 onwards.

(The extracts on left side in italics are the messages sent by Poonam to the complainant)

‘Aap jaisi doge, mei Sir ko boldugi’ 21.53
‘He told me Kaam ho jaayega’ 21.53
OK mam. 22.05

8 April 2023

‘Hello Rinku ji
Mei bahut pacht rahi hoo 12.36
Aap phone nahin kar rahe ho 12.37
Mei Sir ko mana kar rahi hoo’ 12.37

‘Mam sir ka Whats app no on nahin tha
I tried various times. Abhi normal call
pr bat ho gyi h U confirm. Tomorrow
at noon. I give the payment at
gurgaon. Sorry Mam’ 13.18

*‘Hi. Many Payments approved. Will
give total on Monday’* 14.39

11 April 2023

*‘9 lac pending. Rest cleared. These
also by tomorrow’* 18.18

‘This msg I received from Sor’ 18.19
‘Sir’ 18.19

FORWARDED

*“Money will take some time as HSDM is yet
to get this year budget. But payment
files have been cleared”* 18.39

The above reproduced extracts show that the exchange of messages was as regards clearance of bills. Further, the message as received by

Poonam from the petitioner informing that the bills had been cleared but there were some budgetary issue and which had been forwarded by Poonam to the complainant leaves no room for any doubt as regards role of petitioner.

(iv) Complicity of petitioner writ large from the facts:

As noticed from the extracts of '*WhatsApp*' conversation reproduced above, the co-accused Poonam, although not serving in Haryana Skill Department, was being apprised about all the developments pertaining to clearing of bills. Apparently, it was on account of connivance of the two accused that the petitioner was keeping Poonam updated about the progress in clearing of bills. The bills submitted by the complainant were otherwise pending approval since the last three years but once the deal was struck between the complainant and accused, the files started moving quickly. The petitioner approved six bills of the complainant amounting to about Rs. 11 lacs within a period of twelve days. Thus, it is not a case that co-accused Poonam had bluffed the complainant by falsely representing that she could get the work done through the petitioner but she actually was working in connivance with him.

8. Co-accused Poonam, who was caught red-handed accepting the amount, in her disclosure statement, has stated in unambiguous terms regarding complicity of petitioner. Although, the petitioner was let off after questioning on 20.4.2023 but the same cannot be construed as a pointer to his innocence. Rather, it shows that the investigating agency chose to be sure and collected sufficient evidence against the petitioner before initiating any proceedings to arrest him. It is a case warranting custodial interrogation as finer details of

modus-operandi and details of other identical instances of clearance of bills are to be unearthed. Some other training providers have already come forward alleging that even in their cases, the petitioner had accepted illegal gratification. There is a strong apprehension that the petitioner, because of his position, will try to influence witnesses. As a matter of fact, another co-accused Deepak Sharma, CSO apprehends danger at the hands of the applicant/accused as stated by him in his statement recorded under Section 164 of Cr.P.C.

9. Thus, no special case for grant of anticipatory bail is made out. The petition is sans merit and is hereby dismissed.

02.06.2023

kamal

(Gurvinder Singh Gill)

Judge

Whether speaking /reasoned

Whether Reportable

Yes / No

Yes / No