

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27636-2023 (O&M)
Date of Decision:- 2.6.2023

Kashi Ram ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ajit Singh Lamba, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana,
assisted by Inspector Jai Singh.

Mr. G.S. Sidhu, Advocate for the complainant.

FIR NO.	DATE	POLICE STATION	OFFENCES
14	9.5.2023	ACB, Hisar, District Hisar	Section 384 IPC, Sections 7 and 7-A of the Prevention of Corruption Act, 1988

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 Raj Kumar wherein it is alleged that he has been residing at the house of his maternal uncle since the last about 15 years. His uncle had been arrested by the police on 5.5.2023 in connection with FIR No. 78 dated 3.5.2023 registered under Sections 21-B, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Baragudha, District Sirsa. It is further alleged that on the said date i.e. on 5.5.2023, Raja Nambardar of Village Maladi told him (complainant

Raj Kumar) that his name is also reflected in the case and made him speak to SHO Baragudha over mobile phone through *WhatsApp* call. The said conversation is stated to have been recorded by the complainant through his friend Manpreet. Raja Nambardar told the complainant that in case he wanted to get his name removed from the case, he has to pay an amount of Rs. 40,000/- to SHO Kashi Ram. It is alleged that on 9.5.2023, Raja Nambardar asked him (complainant) to pay an amount to him (Raja Nambardar) and that he shall further pass on the same to Kashi Ram and his name shall be deleted and that in case the said amount is not paid, the complainant shall be involved in the case. Since the complainant did not wish to pay the said bribe, he reported the matter to the Vigilance Bureau. A trap was accordingly laid and Raja Nambardar was caught red-handed while accepting bribe of Rs. 40,000/-.

3. The learned counsel for the petitioner has submitted that the petitioner had neither made any demand of bribe nor had admittedly accepted any bribe from the complainant and that it is the co-accused Raja Nambardar who was caught red handed while accepting bribe amount of Rs.40,000/- from the complainant and that in these circumstances, the allegations against him are absolutely false and is a concocted story.
4. On the other hand, the learned State counsel, while opposing the petition, has submitted that apart from the complainant's statement, even the co-accused Raja Nambardar had made a disclosure statement against the petitioner. It has further been submitted that there is telephonic conversation also between the complainant on one hand and Raja Nambardar and petitioner on the other side, which clearly shows the discussion regarding an amount of Rs.40,000/-.

5. This Court has considered rival submissions addressed before this Court.
6. While it is correct that specific allegations have been levelled against the petitioner in the FIR to the effect that the petitioner through Raja Nambardar had demanded an amount of Rs.40,000/- for clearing the name of the complainant from the FIR lodged against complainant’s uncle but it is the co-accused who is stated to have been caught red handed while accepting the bribe. The evidence against the petitioner is stated to be in the shape of audio-conversation, the transcript of which has been placed on record as Annexure P-5 by learned counsel for the petitioner. A perusal of said conversation would indicate that while the first part of conversation is between the complainant and the co-accused Raja Nambardar @ Sukhraj, the latter part of the conversation is between the complainant and the petitioner. In the first part, which is a conversation between the complainant and Sukhraj @ Raja Nambardar, there is a reference that the matter had been settled at Rs.40,000/- without specifying as to what the said matter is. In the latter part, the conversation is between the complainant and the petitioner Kashi Ram wherein Kashi Ram is found to have issued some threats to give beatings to the complainant. Some parts of the said conversation are reproduced herein-under :-

Kashi Ram	Do not annoy my boy, otherwise I will hit you with shoes and if he had not come, I would have given you beatings.
Raj Kumar	Sir, Please leave this.
Kashi Ram	He is my boy, he had come else.....
Raj Kumar	He is my maternal uncle, if he is your boy.
Kashi Ram	I have told him also and you can ask him.
Raj Kumar	Sir, please listen to me.
Kashi Ram	I have spent 40,000/- from my home and my secret informer has run away after taking the amount.
Raj Kumar	Listen to me.

Kashi Ram	Is it not correct that I have gone till Moga. Till the Colony of Harijans and he is son of my brother.
Raj Kumar	He is my maternal uncle.
Kashi Ram	Voice not clear. I will beat him also. He also consumes heroin. I will beart him by putting him on the floor, but what can I do if it is not so.
Raj Kumar	In case there is any role of mine is found even for a minute, even if there is any role you can hang me.
Kashi Ram	I will not hang you.... I am not someone who can hang you.

Kashi Ram	Everybody agreed that 10 grams was brought and sold. Disclosed the names of those and I will teach them a leasson.
Raj Kumar	Sir, there is nobody bigger than us. You know everything.
Kashi Ram	God is big, the Supreme.
Raj Kumar	Yes yes God is Supreme.
Kashi Ram	But he himself admitted that 10 grams was brought. Tell whether he had admitted or not. What is the name.... Sitting near Kuldeep, 10 grams was admitted.
Raj Kumar	It is correct.
Kashi Ram	Said that I have sold the remaining and give the names of those persons.
Raj Kumar	Hmm.....
Kashi Ram	I will get those persons.
Raj Kumar	O.K.
Kashi Ram	I will mak,e case of 2.75 grams. Tell more than give me names of those who bought, that they are the once and I will get them. This is amazing that 10 grams heroin has been brought. That is what it is and he has agreed on this. He is the nephew, tell me what do I have to do.
Raj Kumar	Yes he is your nephew and my maternal uncle and therefore we have sent.

7. The aforesaid conversation does not reflect that the petitioner has directly raised any demand of Rs.40,000/- from the complainant. Though, the conversation between the complainant and Sukhraj @ Raja Nambardar does reflect some discussion regarding Rs. 40,000/-. Admittedly, the conversation of the complainant with both petitioner as well as Sukhraj @ Raja Nambardar was made through one call only indicating that the petitioner as well as Sukhraj @ Raja Nambardar were having some kind of meeting of minds. However, at the same time, having regard to the fact that the petitioner enjoys a clean record whereas the complainant Raj Kumar and

his uncle Biru Ram stand involved in a large number of cases i.e. 5 cases against the complainant Raj Kumar and 10 cases against his uncle Biru Ram, the details of which have been mentioned in Para 1 of the petition, this court does not find the instant case to be a case where custodial interrogation would be justified, particularly when even the conversation does not reflect any crisp demand of Rs.40,000/- by the petitioner.

8. The petition, as such, is accepted and it is ordered that the petitioner in the event of his arrest shall 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 Arresting/Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

2.6.2023

kamal

(Gurvinder Singh Gill)
Judge

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