

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-37915-2023 (O&M)
Reserved on: 19.09.2023
Pronounced on: 10.10.2023

Baljinder Singh

... Petitioner(s)

Versus

State of Haryana

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. P.S. Ahluwalia, Advocate
for the petitioner(s).

Mr. Manish Bansal, Sr. DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
13	5.5.2023	Anti Corruption Bureau, Hisar	186, 332, 353, 384 IPC and Sections 7, 7A, 13(1)(B) and 13(2) of the Prevention of Corruption Act, 1988.

1. The petitioner, who is an ASI in Haryana Police, is alleged to have demanded bribe amounting to a total of Rs.50,000/-. Initially, he took Rs.10,000/- through his agent one Meetu @ Atamjeet for the registration of FIR and secondly, a demand of Rs.15,000/- was made to arrest and for the recovery of money. On second time, when a trap was laid, he escaped with the bribe money of Rs.7,000/- and the co-accused Meetu @ Atamjeet and ASI Ravinder were apprehended at the spot, and now, apprehending arrest in the FIR captioned above, the petitioner has come up before this Court seeking anticipatory bail under Section 438 CrPC after the same was rejected by the Sessions Court.
2. As per para 32 of the bail petition, the accused declares that he had no criminal antecedents.
3. Counsel for the petitioner has submitted that in the transcript of the phone recording, it was ASI Ravinder who had demanded the bribe money and same was recovered from him. He further submitted that even the complainant in his statement under Section 164 CrPC, did not attribute any direct demand or acceptance of illegal

gratification by the petitioner. Even in the FIR, neither the petitioner demanded any money nor accepted Rs.10,000/- and after registration of the said FIR, he neither demanded nor accepted Rs.15,000/-.

4. The State's counsel opposes the bail and states that considering the allegations, the petitioner's custodial interrogation is necessary.

REASONING:

5. The arguments raised on behalf of the petitioner are contrary to the investigation.

6. This Court had granted anticipatory bail to the petitioner vide order dated 10.8.2023 and as per paragraph no.8 of the reply filed by the State by way of affidavit of DySP concerned, the petitioner did not cooperate in the investigation and did not give any rational answer to the investigator. It will be appropriate to refer to the relevant facts from the reply, which read as under:-

- "2. That the brief facts of the case are that complainant Krishan Kumar S/o Phool Singh moved written complaint before the police, alleging therein that on 17.03.2023 he moved an application before the police against Naresh Kumar and 2-3 Unknown persons for cheating and fraudulently obtaining Rs.12 lacs and that matter was investigated by ASI Baljinder (petitioner/accused), Incharge of police post Surya Nagar, Hisar and to register a case in that matter, ASI Baljinder (Petitioner/accused) put him under pressure and asked to meet co-accused Mittu and demanded bribe of Rs. 50,000/- and due to the pressure, he (complainant) gave Rs. 10,000/- to Incharge ASI Baljinder (Petitioner/accused). Complainant further alleged that now ASI Baljinder (accused/petitioner) to arrest the accused persons and to recover his money, again started pressurizing him and demanded bribe of Rs. 15,000/- through the mobile phone 98960-72255 of co-accused Mittu and asked him to come in the police post with co-accused Mittu and to give bribe of Rs. 15,000/-. The complainant further alleged that he does not want to give the bribe to the accused persons and requested for legal action against them. As such on the basis of this complaint a case FIR No. 13 dated 05.05.2023 u/s 384 IPC & 7, 7A PC Act (186, 332, 353 IPC & 13(1)(B) & 13(2) PC Act later on added) PS, ACB, Hisar registered against the petitioner & other co-accused.
3. That thereafter, a raiding party was constituted which was headed by Kailash Chand, DSP, ACB, Hisar, and after doing the pre raid formal proceedings, a raid was conducted on petitioner and co-accused ASI Ravinder, Incharge, PP, Surya Nagar, Hisar and Meetu @ Atamjeet. During trap co-accused Meetu @ Atamjeet along with Co-accused ASI Ravinder were apprehended, whereas petitioner fled away from the spot with bribe money of Rs. 7,000/- and co-accused ASI Ravinder threw the bribe money of Rs. 8000/- on the floor of MHC Room and the same were recovered by the raiding team in presence of independent witnesses namely Sh. Anil Kumar, Works Manager, Haryana Roadways, Hisar, and SI Bhagirath, Haryana Roadways, Hisar.

It is also pertinent to mention here that co-accused ASI Ravinder and Meetu @ Atamjeet also obstruct the performance of official duty of raiding team and tried to flee but they were apprehended and during said obstruction DSP Kailash Chand and HC Virender Kumar who were member of raiding party, sustained injuries.

4. That during course of investigation, sufficient evidence were collected by the IO of this case i.e. recording of demand of bribe by the petitioner from the complainant, result of hand wash of the co-accused persons namely Meetu @ Atamjeet and ASI Ravinder in which phenolphthylene and sodium carbonate was detected, statement of complainant u/s 164 CrPC, statement of witnesses u/s 161 CrPC and official record regarding pendency of work of complainant with the petitioner/accused. As such there is sufficient evidence on the record to prove the foundation facts offence committed petitioner/accused and other co-accused persons.”

7. As per prosecution’s case, when they called the petitioner for joining the investigation, the petitioner switched off his mobile phone and fled to Rajasthan and was also absent from duty. In the meantime, the police sent the hand wash of co-accused to FSL Madhuban and the test report corroborated the police version. Subsequently, prosecution was launched against the co-accused Meetu @ Atamjeet and ASI Ravinder by filing report under Section 173(2) CrPC.

8. As per the reply, on a trap laid by the police, co-accused Meetu @ Atamjeet and ASI Ravinder were apprehended and out of the trap money of Rs.15,000/-, which was numbered, Rs.8,000/- were recovered from co-accused ASI Ravinder who had thrown the same on the floor, whereas the petitioner fled away from the spot with the bribe money of Rs.7,000/-. Counsel for the State submitted that there is CCTV footage in which the incident was recorded. Thus, the petitioner’s stand that the demand was by co-accused Ravinder, is not corroborated from the preliminary evidence, which suggests that out of the trap money of Rs.15,000/-, the petitioner received Rs.7,000/- with which he absconded.

9. In paragraph 15 of the petition, the petitioner tries to justify his stand, submitting that in the main case i.e. FIR No.283 dated 18.4.2023, transactions were in piecemeal and not in one go, as projected by the complainant in the said case. That being so, it would affect the investigation in that case, and it would not entitle the petitioner to indulge in receiving illegal gratification.

10. Petitioner took the plea of *alibi* in paragraph 18 of the petition, submitting that in the CCTV footage of his house, he had entered his house at 3.48 pm and left his house in civil dress at 3.51 pm. He has annexed CCTV footage to that effect as Annexure P-5. However, in paragraph 12 of the reply it is submitted that as per the call details obtained

from Airtel, the petitioner and co-accused ASI Ravinder Kumar talked to co-accused Meetu @ Atamjeet on his mobile phone through complainant’s mobile number and the call started at 15:48:36 on 5.5.2023 and it lasted for 73 seconds. This is the exact time which the petitioner had shown in his CCTV footage.

11. Apart from above, the most glaring fact which goes against the petitioner is that despite being a police officer, once if he had found a false case foisted upon him, he chose to abscond and absented from duty. Nobody had stopped him from approaching the Court by filing a bail petition at that point of time instead of absconding. A perusal of the order dated 13.7.2023 passed by the Sessions Court, whereby his bail application was rejected, reveals that the said application was filed on 6.7.2023 whereas the incident was of 5.5.2023. Thus, the petitioner being a police officer absconded and became a fugitive from justice.

12. Therefore, in the facts, and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make out a case for bail.

13. Accordingly, the present petition dismissed. Interim order dated 10.08.2023 shall stand vacated. All pending applications, if any, also stand disposed of.

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

(ANOOP CHITKARA)
JUDGE

October 10, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No