

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-45910-2022 (O&M)

Date of Decision:- 30.1.2023

Sanjay Kapoor

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Bhupinder Ghai, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana,
assisted by Inspector Ram Niwas

Mr. Abhinav Sood, Advocate and
Mr. Dhruv Chowfla, Advocate for the complainant.

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered vide FIR No. 19 dated 15.6.2022 under Sections 7, 7-A, 13(1)-B of the Prevention of Corruption Act, 1988 and under Sections 384, 467, 468, 471/120-B IPC at Police Station SVB, Faridabad, District Faridabad (Haryana).
2. The FIR was lodged at the instance of Sudhir Vasudev wherein it is alleged that he is working as a Contractor and was undertaking construction in Faridabad, which was almost at final stage. The complainant alleged that one Sanjay (petitioner) approached him and told him that he had been sent by Junior Engineer and by the S.D.O. and that he looks after the work of Municipal Corporation, Faridabad (MCF) and that the complainant will have to pay an amount on the basis of the slabs constructed by him. The said person, while issuing threats, forced the complainant to give a cheque for an

amount of Rs.50,000/- to him and an amount of Rs. 1.5 lacs in cash. It is further alleged that subsequently after about two days, an employee of the MFC namely Yogesh came and told the complainant that the building would be demolished and asked the complainant to speak to Kapil, J.E. over phone. It is alleged that Kapil, J.E. demanded an amount of Rs. 5 lacs. The complainant, however, said that he could pay only Rs. 3 lacs and that as on the said date, he will pay Rs. 1 lac while the balance would be paid later.

3. The complainant did not wish to give bribe and he reported the matter to the Vigilance Bureau. A trap was laid and Yogesh was apprehended by the police and tainted currency notes of an amount of Rs. 1 lac were recovered from his possession. Said Yogesh was made to call Kapil, J.E. on telephone and when the call was made, Kapil J.E. asked Yogesh to make a Whatsapp call. When the Whatsapp call was made, the same was put on speaker phone and the conversation was recorded in another apparatus and during the conversation, Kapil J.E. asked Yogesh to hand over the amount on the next day to him.
4. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that no amount was ever demanded by him or was paid to him and that at best, the allegations against him is that he had conveyed the demand made by the co-accused Kapil, J.E. and S.D.O. to the complainant. The learned counsel has further submitted that though a part of the allegation is that the complainant had given a cheque for an amount of Rs. 50,000/- to the petitioner but the same is highly improbable as no corrupt person will accept payment by way of cheque as the same would easily expose him. It has been submitted that as a matter of fact the petitioner is working for City Mail Weekly Newspaper and the said

amount had been given to him by complainant for the purpose of publishing some advertisements, which had been duly published.

5. Opposing the petition, the learned State counsel assisted by counsel for the complainant has submitted that the petitioner was hand-in-gloves with the remaining co-accused including Kapil, J.E. and the S.D.O. and had been collecting amounts on their behalf so as to extent some kind of protection to the complainant and for ensuring release of payments. The learned State Counsel has further submitted that the stand taken by the petitioner of having accepted the amount of Rs. 50,000/- by cheque for the purpose of publishing advertisement in the newspaper has been found to be patently false inasmuch as the investigating agency had collected copies of the newspapers i.e. the City Mail Weekly Newspaper, which were published during the period 10.8.2021 to 16.8.2021 and 26.1.2021 to 1.2.2021 wherein no such advertisement of M/s Vasudev Associates were found and which would show that the copy of the newspaper earlier furnished by the petitioner on 5.8.2022 wherein an advertisement on behalf of M/s Vasudev Associates were shown, was a forged and fabricated copy of the newspaper and had been printed subsequently so as to set up a defence.
6. This Court has considered the rival submissions.
7. The allegations, as per the FIR, are that the petitioner had demanded amount from the complainant which was to be passed on to co-accused Kapil, J.E. and to the S.D.O. It is no doubt correct that when the trap was laid, it is co-accused Yogesh, who was found in possession of the tainted currency notes and the petitioner was nowhere present at that time. However, the fact that a cheque for an amount of Rs. 50,000/- had been handed over to the petitioner

in respect of which there is some audio-recording as well, is a circumstance against the petitioner.

8. Still further, the petitioner having taken a stand before the investigating agency that the cheque of Rs. 50,000/- had been taken by him for the purpose of publishing an advertisement on behalf of the complainant and the petitioner had produced a weekly newspaper i.e. City Mail Weekly Newspaper showing an advertisement on behalf of M/s Vasudev Associates but as a matter of fact, it was found that no such advertisement had in fact been published and the copy of the weekly newspaper furnished by the petitioner was a fabricated document which had been got printed subsequently reflects on the conduct of the petitioner, who in order to conceal his guilt has resorted to furnishing forged and fabricated documents to the investigating agency. The investigating agency had collected the copies of the weekly newspaper for the period from 10.8.2021 to 16.8.2021 and 26.1.2021 to 1.2.2021, which had actually been published and circulated which do not show any such advertisement.
9. Having regard to the aforestated position, particularly having regard to the conduct of the petitioner, this Court does not find any special ground for grant of anticipatory bail to the petitioner.
10. The petition is found to be sans merit and is hereby dismissed.

30.1.2023

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No