

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45451-2023
Reserved on: 13.10.2023
Pronounced on: 19.10.2023

Sandeep Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vinod Ghai, Sr. Advocate with
Mr. Arnav Ghai, Advocate and
Mr. B.N.S. Marok, Advocate for the petitioner(s).

Mr. Rajat Gautam, Addl.A.G., Haryana.

Mr. J.P. Jangu, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
63	06.02.2023	Palam Vihar, Gurugram	420/120-B, 506 IPC and 7 and 13-B Prevention of Corruption Act, 1988 added later on

1. The petitioner apprehending arrest in the FIR captioned above, had come up before this Court in the month of June 2023, under Section 438 CrPC seeking anticipatory bail.
2. Vide order dated 13.09.2023, the petitioner was granted interim protection by this Court, which is continuing till date.
3. When the matter was taken up for hearing on 20.09.2023, petitioner’s counsel submitted that they have voluntary complied with the conditions of order dated 13.09.2023 and affidavit declaring assets had been handed over the State counsel.
4. Senior counsel for the petitioner submits that the matter pertains to the year 1990 and no case under Prevention of Corruption Act is made out. He further submits that Anil was also one of the accused.
5. The facts of the case are extracted from reply dated 19.09.2023 and 27.09.2023. The relevant paragraphs of reply dated 27.09.2023 are as under:-

“5. That the petitioner was working as Dealing Hand in CM Window Wing in the office of Deputy Commissioner of Police, West, Gurugam and he told the complainant that he is having good relations with senior officers and other dealing persons in the Town and Country Planning Department and by using his position of being working at CM Window seat, he can get his work done through the officers. He had also named some Mr. Phalswal for this purpose, however, later on he did not get the work done. Thereby the petitioner used his official position to entrap the complainant and obtain money.”

6. Thus, the allegations against the petitioner are that he misused his position of dealing hand and cheated money either by extorting money on false assurance or the possibility of his working as conduit as well as involvement of the other Government employees is also there. The investigation conducted so far points out towards the petitioner's involvement in the alleged crime.

7. The other facts which are being taken from the reply dated 19.09.2023, are referred hereinunder:-

“2. That the brief facts of the present case are that a complaint was submitted by Praveen Kumar alleging therein that he has 12 acres of land in Faridabad. The same is owned by the complainant and his two brothers. The said land was sold by the brothers of the complainant to Durga Builder and got sanctioned the plan in the year 1990 after executing the agreement. When the zamindar came to know about the same, he took action against Durga Builder. The case was heard in the Court of SDM Faridabad and Ld. Court at Faridabad and the same was decided in favour of the complainant. The Tehsildar got the possession handed over to the complainant. When the complainant went to the land for taking possession, the DTP came there and told that the said land falls in his plan, and asked the complainant to get the land removed from the DTP plan and thereafter take the possession. The complainant party submitted their file in the concerned department in Chandigarh. They told about their case to Sandeep and Anil, who told them that they will get the work done in 10 days, and asked for Rs 25 Lakhs. Sandeep told that he is posted in CM Window and has connections with the officers. On 20.05.2022, the complainant paid Rs 15 Lakhs to Sandeep. The complainant also told Anil about the same through phone. The complainant further paid Rs. 10 Lakhs to Sandeep and Anil on 24.05.2022. He further said that he does not trust Anil and asked Sandeep to keep the money until the work is done. They kept saying that the date will be fixed in Chandigarh, but no date was fixed. The complainant got suspicious and demanded his money back. He also started making audio recordings of Sandeep. They kept assuring him on one pretext or other that their money is safe. Later on, when he met them, they started saying that he has not given any money. They also threatened to kill him,

implicate in false cases and to get his children kidnapped Prayer was made to take legal. Thereupon, the above mentioned FIR was registered.

3. *That the investigation of the present FIR was conducted by SI Gajraj During investigation, the pen drive attached by the complainant with his complaint was examined and the transcript was prepared. It came forth that the petitioner Sandeep has confirmed about him having Rs. 25 Lakhs of the complainant. He is also talking about one Palaswal. In another pen drive, accused Anil can also be heard confirming about the amount of Rs 25 Lakhs kept by Sandeep*

4. *That the affidavit of Anil Sharma annexed with the complaint depicted that he obtained the amount of Rs. 25 Lakhs from Praveen Kumar for getting the work done relating to land, counsel fees and other expenses No one has any relation with this amount.*

5. *That the complainant Praveen Kumar was also joined in the investigation. He stated that he gave the amount of Rs 71 Lakhs to Sukhbir Malik who assured that the agreement of the land will be executed as and when the land is ousted from the map of DTP Faridabad. The complainant talked to Anil Sharma for getting the work done, who gave the reference of Sandeep (present petitioner) employed in CM Window Cell in the office of DCP West, Gurugram. The complainant met Sandeep, who assured to get the work done and stated that the amount of Rs 1.25 crores will have to be paid and Rs 25 Lakhs will have to be paid earlier. On 20.05.2022, the complainant gave Rs. 15 Lakhs and on 24.05.2022 he gave Rs. 10 Lakhs to Sandeep (present petitioner) Thereafter, Sandeep failed to get the work done and the complainant demanded back his money and he (Sandeep) refused to return the money, rather, he criminally intimidated him. The complainant submitted a complaint in the office of ACP Udyog, Gurugram, due to which Sandeep requested Anil to give an affidavit to take all the blame upon himself, so that his (Sandeep's) job is saved, and as such, Anil gave the said affidavit. Sandeep had also obtained the signatures of Anil on 7-8 blank papers."*

8 Reply contained the telephonic conversation between the complainant-Parveen Kumar and the petitioner. As per para 9 of the reply, custodial interrogation of the petitioner is also required to get recovery of amount of Rs.25 lacs. The evidence collected point out towards petitioner's involvement in thuggee.

9. The argument raised by Senior counsel for the petitioner about pertaining of case to the year 1990 is totally meaningless, prime facie not only Prevention of Corruption Act but also cheating is found to made out that is why petitioner has been arraigned for the offence under offence 420 IPC also. As far as second argument is concerned, that whether Anil is an accused or not, is the subject matter of the Investigator. He is liable to be investigated and in case evidence is found against him, he shall be prosecuted. However, as per reply dated 27.09.2023, Anil has been arraigned as accused in this case.

The concerned Investigator also directed to do proper investigation in this regard.

10. Given the massive involvement of amount of Rs.1.25 crores, the petitioner who was working in a sensitive position involved in a crime, such crimes would crumble the entire system which in turn would also crumble the rule of law.

11. In the entirety of facts and circumstances of the case, the petitioner is not entitled to bail as such the instant petition is dismissed. Interim orders are recalled.

(ANOOP CHITKARA)
JUDGE

19.10.2023
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Whether speaking/reasoned:	Yes
Whether reportable:	No.