

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

CRM-M-48201-2022 (O&M)
Date of Decision:- 6.2.2023

Som Nath

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ajaivir Singh, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab,
assisted by ASI Gurmeet Singh.

Mr. Rajveer Singh, Advocate for the complainant.

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered vide FIR No. 14 dated 13.9.2022 under Section 7 of the Prevention of Corruption Act, 1988 at Police Station Vigilance Bureau, Phase-1, Punjab at Mohali, District SAS Nagar.
2. The FIR in question was lodged at the instance of Balvir Singh wherein he stated that he had already submitted a complaint online to the police. The complainant stated that he runs a juice shop at Bus Stand Kharar and had been called in connection with his online complaint. He stated that he had rented out his flat situated in Kharar to Jatinder Mohan Singh since the last 6-7 years, who was residing alone. However, his neighbours had informed him that his tenant Jatinder Mohan Singh alongwith his friend ASI Som Nath used to come to the flat everyday and every time with a different woman. The complainant went to the flat and saw that ASI Som Nath was

entering the room alongwith a woman. The complainant knocked at the door and confronted ASI Som Nath that he should be ashamed of his conduct, being a police officer and upon which ASI Som Nath started abusing the complainant and scuffled with him and threatened to implicate him falsely in some case. Thereafter, the complainant got his flat vacated from Jatinder Mohan Singh and started residing in the same alongwith his family. On 13.8.2022, while he alongwith his sons was present in his shop, his son Kulwinder received a call from complainant's wife at about 11 a.m. disclosing that four policemen have entered the house forcibly and are taking search and when his daughter-in-law inquired from the police officials then ASI Som Nath slapped her. The complainant immediately rushed to the house alongwith his younger son Akashdeep Singh on their motorcycle - Royal Enfield bearing registration No. PB-39K-4500 and saw that ASI Som Nath, ASI Karnail Singh, two other policemen and a civilian, who was under influence of liquor, were searching his house. When the complainant asked ASI Som Nath about the search, he hit the complainant with a rod. The said act was recorded by complainant's son Akashdeep Singh. When ASI Som Nath and the driver tried to force the complainant into their vehicle Scorpio, the complainant managed to escape and ran away. ASI Som Nath took away the motorcycle bearing registration No. PB-39K-4500 in a Tempo and asked the complainant to come to the Police Station. On 17.8.2022, the complainant alongwith his friend Raghvir Singh went to the Police Station and requested him to release the motorcycle but ASI Som Nath demanded bribe of Rs.60,000-70,000/- for releasing the motorcycle. The said conversation was recorded. Since the complainant did not wish to pay bribe, he uploaded the conversation on the Chief Minister Action

Helpline Number 9501200200 with the help of Raghvir Singh's mobile phone.

3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that it is a case where the complainant as well as Raghvir Singh themselves have a chequered record. The learned counsel has submitted that the complainant Balvir Singh himself stands involved in FIR No. 0035/2018, Police Station Special Task, Force, District SAS Nagar under Sections 21 and 29 of the NDPS Act (Annexure P-2) wherein he was convicted by the Special Court, SAS Nagar (Mohali) vide judgment dated 6.2.2020. It has further been submitted that Raghvir Singh, who is projected as a witness, is infact an accomplice of the complainant and he is also a drug-peddler, having been involved in FIR No. 65 dated 30.3.2014, Police Station City Kharar, Punjab (Annexure P-4) and wherein he was convicted vide judgment dated 29.1.2018 (Annexure P-5). The learned counsel has submitted that the said Raghvir Singh also stands involved in FIR No. 87 dated 4.6.2020, Police Station Phase-1, Mohali under Section 21 and 22 of the NDPS Act.
4. The learned counsel submits that the motorcycle in question, alleged to have been taken away by the accused, was infact already in the possession of police, as the same had been found abandoned, as is also recorded in the challan book, the relevant extract of which is Annexure P-6. It has also been submitted that no authenticity can be attached to the alleged audio conversation and as such, the petitioner, who has a meritorious record, deserves the concession of anticipatory bail.

5. Opposing the petition, the learned State counsel has submitted that apart from the specific allegations levelled by the complainant against the petitioner, there is audio-recording also to substantiate the said allegation and as such, no special case for grant of anticipatory bail is made out.
6. This Court has considered the rival submissions.
7. It is no doubt correct that specific allegations have been levelled in the FIR wherein the petitioner has been specifically named and is alleged to have demanded a bribe from the complainant for the purpose of releasing the complainant's motorcycle. The contention of the petitioner that the motorcycle in question had been taken into possession by the police as the same had been found abandoned on 13.8.2022, as is recorded in challan form dated 13.8.2022 (Annexure P-6) will not be of much advantage to the petitioner inasmuch as the copy of challan dated 13.8.2022 (Annexure P-6) is not free from doubt. A perusal of said challan would indicate that the said challan is in respect of some violations under the Motor Vehicles Act and while in the printed format as many as 103 violations have been specified, it is the following five violations have been encircled :-
 1. Driving w/o Driving Licence
 2. Driving Licence Expired
 3. Underage Driver W/o DL
 4. W/o Registration Certificate
 5. W/o Route permit
8. Thus, the contention of the petitioner that the motorcycle had been found abandoned is rather contrary to what is mentioned in the challan dated 13.8.2022 (Annexure P-6) wherein some violations with respect to 'driving

without licence' or 'being underage' and 'without route permit' etc. have been encircled.

9. In the present case, the clinching evidence is in the shape of audio-conversation between Raghvir Singh, who is complainant's friend and was accompanying him and ASI Som Nath, a transcript of which has been furnished by the learned State counsel. A perusal of the same clearly shows that negotiations regarding amount are being made between Raghvir Singh and Som Nath pertaining to Bullet motorcycle.

10. In these circumstances, this Court does not find any special case for grant of anticipatory bail. The petition is sans merit and is hereby dismissed.

6.2.2023

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No