

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-53705-2022 (O&M)
Date of Decision:- 20.1.2023

Dharam Pal

.... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Aditya Sanghi, Advocate, for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana,
assisted by Inspector Suresh Kumar.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of anticipatory bail in respect of a case registered against him vide FIR No.26 dated 4.10.2022, under Sections 7, 13(1)(a) read with Section 13(2) of the Prevention of Corruption Act, 1988 and Sections 120-B and 180 IPC, registered at Police Station State Vigilance Bureau, Ambala.
2. At the time of issuance of notice of motion the following order was passed on 13.12.2022:

“This petition under Section 438 Cr.P.C. is filed seeking anticipatory bail in FIR No. 26 dated 4.10.2022, under Sections 7, 13(1)(a) read with Section 13(2) of the

Prevention of Corruption Act, 1988 and Sections 120-B and 180 IPC, registered at Police Station State Vigilance Bureau, Ambala.

The brief facts are that FIR was registered at the instance of Shamsher Singh. He alleged that his father was nominated in a case under the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short, 'the Act') and was arrested on 9.10.2022. SHO Dharam Pal (petitioner) and SHO-Sukhbir Singh demanded illegal gratification of Rs.60,000/- for not implicating him under Section 29 of the Act. Rs.45,000/- was paid. Thereafter, demand of Rs.10,000/- was made. On complaint, trap was laid and SHO-Sukhbir Singh was apprehended red handed. The complainant to support the allegations by producing an audio recording.

Learned counsel for the petitioner submits that no demand was made by the petitioner; Sukhbir Singh was caught red handed; there is no audio recording of the petitioner having conversation with the complainant. The contention is that no recovery is to be made.

Learned counsel for the State opposes the prayer for grant of anticipatory bail, however, on instructions from Inspector Suresh Kumar fairly submits that there is no audio-recording of the petitioner having conversation with the complainant.

Without commenting on the merits of the case, considering the nature of allegations against the petitioner, he was not apprehended from the spot, there is no audio recording with regard to his conversation with the complainant, he being a police official prima facie there is no chance of his absconding, the petitioner is granted interim bail subject to his joining investigation within a week. In the event of arrest, he shall be released on bail

subject to his furnishing adequate bail bonds to the satisfaction of the Investigating Officer. He is directed to join the investigation as and when called for. He shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

List on 20.1.2023.”

3. Learned State counsel has submitted that there was a specific information against the petitioner as well as the co-accused ASI Sukhbir Singh and since ASI Sukhbir Singh was caught red-handed, the allegation virtually stands substantiated against both the accused. Learned counsel has however, informed that pursuant to interim directions, the petitioner has joined investigation and is not required for any custodial interrogation. It has also been informed that the petitioner is not wanted in any other case.
4. This Court has considered the rival submissions.
5. It is no doubt correct that there was secret information against the petitioner as well as against co-accused ASI Sukhbir Singh to the effect that they were demanding illegal gratification from the complainant. However, when a trap was laid, it is only ASI Sukhbir Singh who was caught red-handed and the petitioner was nowhere present at that spot. In view of the fact that the petitioner otherwise has joined investigation and is not stated to be required for any custodial interrogation and enjoys a clean record, the petition is accepted and the interim directions issued by this Court vide order dated 13.12.2022 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to

do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

6. It is made clear that the petitioner shall not make any attempt to intimidate or threaten the complainant or any other witness in any manner. In case, it is found so, it shall be open to the prosecution to move an application for cancellation of his bail.

20.01.2023

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No