

CRM-M-55282 of 2022 (O&M)

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

CRM-M-55282 of 2022 (O&M)

Reserved on: -11.01.2023

Date of pronouncement: - 17.01.2023

Nishant Sareen

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Raghav Gulati and Ms. Sandhya Gaur, Advocate,
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

Mr. D.S. Patwalia, Sr. Advocate,
with Mr. Ranjit Singh Kalra, Advocate,
for the complainant.

NAMIT KUMAR, J.

CRM-48120 of 2022

This is an application under Section 482 Cr.P.C. seeking permission to place on record medical record of wife and son of the petitioner as Annexures P-14 and P-15, respectively.

In view of the averments set out in the application, the same is allowed and Annexures P-14 and P-15 are taken on record, subject to all just exceptions.

CRM-48125 of 2022

Disposed of as having been rendered infructuous.

CRM-46433 of 2022

This is an application under Section 482 Cr.P.C. to grant concession of interim anticipatory bail to the petitioner.

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Dismissed as not pressed.

CRM-46432 of 2022

This is an application under Section 482 Cr.P.C. for placing on record statements under Section 161 Cr.P.C. dated 24.08.2019, 30.08.2019 and 17.02.2021 of complainant recorded in FIR No.4 dated 21.08.2019 as Annexures P-11 to P-13.

In view of the averments set out in the application, the same is allowed and Annexures P-11 to P-13 are taken on record, subject to all just exceptions.

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This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.215 dated 29.10.2022 under Sections 177, 195, 406, 420, 467, 468, 471, 506 and 120-B IPC, registered at Police Station Sector 20, Panchkula.

The instant FIR has been registered against petitioner Nishant Sareen, Vinay Aggarwal, Dr.Komal Khanna and Sanjeev Aggarwal on the basis of a complaint given by one Jagbir Singh S/o late Om Pal R/o Flat No.1501, Sector-20, Suncity Parikarma, Panchkula. The complainant alleged that he is one of the Directors of Symbiosis Pharmaceutical Pvt. Ltd., Suketi Road, Kala Amb, H.P. ("Symbiosis") and Saitech Medicare Pvt. Ltd., Trilokpur Road, Kala Amb, Himachal Pradesh as well as other companies collectively known as Symbiosis Group of Companies. In the year 2019, he was introduced by one Mahinder Pal Khanna to co-accused Vinay Aggarwal at his house at Panchkula. Said Vinay Aggarwal introduced himself as Senior

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Police Officer of IPS Rank in Intelligence Bureau, Ministry of Home Affairs. Said Vinay Aggarwal, with his undue influence, forced the complainant to purchase material from his relative Sanjeev Aggarwal's company R.A.S. Herbal, Haridwar (Uttarakhand) and also to supply material to Zenith Biotech, Sector-14, Sonapat. As per the account statement, an amount of Rs.61,92,971/- became outstanding towards Zenith Biotech. In March, 2020 due to COVID-19 pandemic, there was a huge demand of sanitizers. Hence, Mr. Vinay Aggarwal along with his brother Sanjeev Aggarwal and Sanjiv Sethi asked the complainant to supply sanitizers. At that time, two gun men namely Ravinder Singh and Raj Singh Sangwan as well as the driver Jasbir Singh were in the company of said Vinay Aggarwal. When the complainant refused to fulfil the demand of sanitizers, said Vinay Aggarwal started threatening the complainant with dire consequences if he failed to supply the sanitizers. He threatened that if the complainant failed to supply the sanitizers to them, false and frivolous cases related to sampling of drug manufacturing would be registered against him. Under the compelling circumstances, the complainant started supplying the Sanitizers to the above mentioned persons. Mr. Vinay Aggarwal also forced the complainant to transfer money in his account and took the money of the complainant by threat or force. Said Vinay Aggarwal started to grab money from the firms of the complainant. He also forced the complainant to transfer funds to his account maintained with at ICICI Bank, Sector-9, Chandigarh through RTGS from Symbiosis and other

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firms. In this way, a total amount of Rs.1,49,00,000/- was transferred to the account of Vinay Aggarwal.

Thereafter, petitioner-Nishant Sarin informed the complainant that being a Govt. employee, he could not do any business with the complainant. Petitioner-Nishant Sarin introduced the complainant to his friend Dr. Komal Khanna for doing the business in partnership. Petitioner-Nishant Sarin also threatened the complainant to enter into the partnership with Dr. Komal Khanna. Under the pressure and threats created by the above mentioned persons, the complainant entered into partnership with Dr. Komal Khanna, a close friend of the petitioner. The complainant and said Komal Khanna started to run the partnership firm namely Zhenia Pharmaceuticals. Thereafter, said persons forced the complainant to deal with the firm namely Zhenia Pharmaceuticals. Later on, a business dispute arose between these firms and Zhenia Pharmaceuticals stopped the due payment of Symbiosis and Saitech Medicare. During the course of partnership business, Dr. Komal Khanna had forged and fabricated a false unregistered agreement modifying the partnership deed dated 06.12.2018 alleged to be executed between the complainant and Dr. Komal Khanna. In the forged unregistered agreement, the share of the complainant is shown as only 5% and that of Dr. Komal Khanna is mentioned as 95%. The complainant never executed the alleged unregistered agreement nor he put his signatures over the same. He had not appeared before Notary Public, Panchkula for attestation of the unregistered agreement. Dr. Komal Khanna further forged the signatures of the complainant on an

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affidavit dated 30.07.2018 and produced the same before the Senior Drug Control Officer-cum- Licensing Authority, Ambala Zone despite having the knowledge that she had forged the signatures of the complainant intentionally. Thereafter, Mr. Vinay Aggarwal in collusion with Dr. Komal Khanna and petitioner started to put undue pressure upon the complainant to withdraw all the cases against Dr. Komal Khanna and the petitioner. He was threatened with dire consequences by Mr. Vinay Aggarwal at his home situated in Panchkula. Said Vinay Aggarwal stated that he was in a very strong position in the Government of India and is in a position to close down all Symbiosis business and other associate firms. He also threatened the complainant to implicate him in false cases. Vinay Aggarwal extorted money from Symbiosis and other companies under threats and undue influence of his position. Said Vinay Aggarwal is not in Police service and a case has been registered against him in Himachal Pradesh in this regard. Said Vinay Aggarwal threatened the complainant asking him not to give any evidence against him in the case registered by CID, Himachal Pradesh. He also pressurized the complainant to withdraw all the complaints against Dr. Komal Khanna and petitioner-Nishant Sareen. He threatened that Dr. Komal Khanna would implead the complainant in false criminal cases.

Dr. Anmol Rattan Sidhu, learned Senior counsel for the petitioner submitted that the petitioner, who is working as Assistant Drugs Controller, Drug Control Department, Himachal Pradesh, has been falsely implicated in the present case by the Panchkula police in

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mala fide and mischievous manner. He further submitted that instant FIR is a counter-blast to FIR No.42 dated 23.02.2022 under Sections 323/379/380/406/420/467/468/471 and 506 IPC, registered at Police Station Sector 20, Panchkula, against the complainant. He further submitted that earlier also another FIR No.4 dated 21.08.2019 under Sections 11 and 12 of the Prevention of Corruption Act was registered at Police Station Vigilance, Solan (H.P.) at the instance of the complainant, which is clear from the contents of the FIR wherein the name of the complainant has been clearly mentioned, although the complainant in the said case was S.I. Rajesh Kumar as the same was registered under the provisions of the Prevention of Corruption Act, 1988 wherein petitioner has been granted the concession of regular bail in the said FIR. He further submitted that the petitioner has no control over the working of M/s Zhenia Pharmaceuticals wherein Dr. Komal Khanna and the present complainant Jagbir Singh were partners, although she is relative of the petitioner. He further submitted that during the period of year 2018 to June 2019 petitioner was posted as Assistant Drug Controller at Sirmour (H.P.) and where he had suspended various licences of many pharmaceutical companies out of which the complainant firm was also one of them. He further submitted that the business relation of the complainant with Dr. Komal Khanna became strained during the year 2018 as the complainant started supplying inferior quality medicines at higher rates and due to which he was blacklisted in different States of India. He further submitted that the petitioner is not in possession of debit/credit card of

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the complainant and Creta car was purchased by the petitioner from one Raghbir Singh in year 2018 and the same has been sold out. He also submitted that petitioner does not know Vinay Aggarwal and, therefore, no question arises for any conspiracy hatched with him. He further submitted that no recovery is to be effected from him and, therefore, no custodial interrogation is required. Learned Senior counsel also submitted that co-accused, namely, Dr. Komal Khanna and Vinay Aggarwal have been granted the concession of pre-arrest bail by a Coordinate Bench of this Court vide separate order(s) dated 24.11.2022 passed in CRM-M-54411 of 2022 and CRM-M-54694 of 2022.

Per contra, Mr. D.S. Patwalia, learned Senior counsel appearing for the complainant, submitted that the petitioner is misusing his official position on the drug industry working under his control, including the complainant. Petitioner forced the complainant to enter into agreement with Dr. Komal Khanna and initially the agreement was in the ratio of 50:50, however, the petitioner forced the complainant to give away his share making Dr. Komal Khanna as 95% shareholder in connivance with another accused, namely, Vinay Aggarwal, who projected himself as an IPS Officer with the Intelligence Bureau in Central Government. He further submitted that the petitioner is the main accused who is misusing his official position along with Vinay Aggarwal and hence the custodial interrogation of the petitioner is required in order to unearth the truth.

Learned Senior counsel for the complainant also pointed out that when the present anticipatory bail petition was scheduled to be

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listed on 30.11.2022, S.I. Jagdish Chander, Investigating Officer was transferred on 29.11.2022 by the Commissioner of Police, Panchkula vide orders dated 29.11.2022. Thereafter, when the matter was again scheduled to be listed on 15.12.2022, again one day prior thereto i.e. on 14.12.2022, Surinder Pal Singh, IPS, DCP Panchkula, under whom investigation was carried out was also transferred. The said orders have been placed on record. Learned Senior counsel has also placed on record a copy of press note dated 04.02.2022 issued by the office of DGP, Himachal Pradesh in relation to FIR No.1 of 2022 registered against co-accused Vinay Aggarwal whereby Special Investigation Team has been constituted by the Director General of Police, Himachal Pradesh in said FIR wherein he has by projecting himself as Inspector General of Police in the Central Government along with his associates and extorted money to the tune of Rs.1.49 crores by making pressure upon the industrial units of Himachal Pradesh in connivance with certain persons who accompanied him illegally.

Learned State counsel on the basis of reply filed by the prosecution before the Court of learned Additional Sessions Judge, Panchkula to the anticipatory bail application preferred by the petitioner submitted that the record related to the forged agreement and affidavit is to be recovered and it is to be interrogated as to who was the stamp vendor and the Notary. The petitioner used to threaten the complainant and he also obtained the Debit Card of HDFC Bank and Credit Card of PNB from the complainant by means of pressurizing him. He has used said credit card. The petitioner purchased the Creta

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Car bearing Registration No.HR-54-C-0091 in the name of complainant and used the same himself. The petitioner is required to be interrogated intensely. The Debit card, Credit card and the Creta Car bearing Registration No.HR-54-C-0091 belonging to the complainant are to be recovered. If the petitioner is granted bail, he may abscond. The witnesses may be threatened by him and the record may be tampered with by him. The investigation in the case is at the initial stage. He also submitted that FIR No.42 of 2022 under Sections-323/379/380/406/420/467/468/471 and 506 of IPC, P.S. Sector-20, Panchkula was got registered by Vinay Aggarwal, Nishant Sareen (petitioner) and Komal Khanna in collusion with each other and the same was found to be false one registered only to exert pressure on the complainant. However, cancellation report has since been prepared in the said FIR on 23.09.2022 as no material against the complainant Jagbir Singh could be gathered and the same was registered with the intent that the complainant may not give evidence against the said persons in the cases registered against them. The duplicate IG Vinay Aggarwal, the petitioner and accused Komal Khanna with others usurped Rs.7 Crores of the complainant by means of pressurizing him and playing fraud with him.

I have heard learned counsel for the parties and perused the record thoroughly.

The allegation against the petitioner is that he is a Government servant in Himachal Pradesh and working as Assistant Drug Controller. He has misused his official position on the drug

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industry working under his control, which includes the present complainant who has factories in Himachal Pradesh. Petitioner firstly introduced his relative, Dr. Komal Khanna, for doing business in partnership with Dr. Komal Khanna and pressurised the complainant to enter into partnership with her and under the pressure of petitioner and Vinay Aggarwal, the complainant entered into partnership with Dr. Komal Khanna in 50% share. Thereafter, Dr. Komal Khanna ally of the present petitioner has taken 95% share by hijacking the business of the complainant by forcing him through the petitioner by preparing forged and fabricated, false unregistered agreement modifying the partnership deed dated 06.12.2018 alleged to be executed between the complainant and Dr. Komal Khanna. Petitioner threatened the complainant that he will cancel/suspend the permit/licence of his business to ruin the same otherwise he has to sign the partnership agreement wherein 95% share will be of Dr. Komal Khanna and 5% of the complainant. An FIR No.4 of 2019 has already been registered against the petitioner under the Prevention of Corruption Act in which petitioner was granted regular bail by the Himachal Pradesh High Court on completion of investigation and keeping in view his custody period, he was not granted anticipatory bail therein. The complainant alleged that the said unregistered agreement was never executed in his presence nor he has put his signatures over the same and nor have appeared before the notary public, Panchkula for attestation of the unregistered agreement and Dr. Komal Khanna further forged the signatures of the complainant on affidavit dated 30.07.2018 and produced the same

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before the Senior Drug Control Officer-cum-Licencing Authority, Ambala Zone, despite having the knowledge that she had forged the signatures of the complainant intentionally. Learned senior counsel for the petitioner submitted that for getting 95% share from 50% share in partnership agreement, the co-accused Dr. Komal Khanna has paid hefty amount to the complainant but no such record in support of this contention has been placed on record. A perusal of the record shows that petitioner is the main person who is misusing his official position. The trial Court while rejecting the anticipatory bail categorically observed that the petitioner is illegally using the credit card and the car of the present complainant which stood transferred thereafter in the name of the wife of the petitioner.

So far as the registration of present FIR is concerned on the same set of allegations as contended by learned Senior counsel for the petitioner, the trial Court has rightly pointed out that the instant FIR is under different Sections within the territorial jurisdiction of Panchkula Police.

This Court has perused the orders dated 24.11.2022 passed by a Co-ordinate Bench of this Court in CRM-M-54411 of 2022 and CRM-M-54694 of 2022 whereby Dr. Komal Khanna and Vinay Aggarwal have been granted anticipatory bail. Co-accused Vinay Aggarwal has been granted bail on the ground of double jeopardy as on the same set of allegations, FIR No.1 of 2022 has already been registered in Himachal Pradesh. Whereas co-accused Komal Khanna was granted anticipatory bail in present FIR under Sections 177, 195,

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406, 420, 467, 468, 471, 506 and 120-B IPC in view the statement under Section 161 Cr.P.C. made by the complainant in FIR No.4 of 2019 registered under the Prevention of Corruption Act wherein he admitted that under the pressure of present petitioner he has signed the partnership agreement wherein share was extended from 50% to 95% in favour of co-accused Dr.Komal Khanna wherein allegation against Dr. Komal Khanna was of forgery done in partnership agreement. The case of the petitioner is distinguishable in view of the role attributed to him as well as conduct of the petitioner and the gravity of offences.

It is apt to mention here that a petition bearing CRM-M-2097 of 2023 has been filed by the complainant praying therein for transfer of investigation of the present FIR to CBI to unearth the role of senior officers of Haryana Police and to bring out the truth about an extortion racket running across the State of Himachal Pradesh and Haryana wherein this Court has issued notice of motion and the case is now fixed for hearing on 22.03.2023.

Reliance can be placed upon the Hon'ble Supreme Court dictum passed in ***Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (Crl.) 598*** and ***Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and another, (2020)19 Supreme Court Cases 364*** whereby the Hon'ble Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

In view of the peculiar facts and circumstances of the case and settled preposition of law by the Hon'ble Supreme Court, to my

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mind a deeper probe is required to unearth the truth. Recovery of Debit card, Credit card and Creta car and to ascertain the truth regarding unregistered partnership agreement modifying the partnership deed dated 06.12.2018 and affidavit dated 30.07.2018 of complainant done by co-accused Dr. Komal Khanna in connivance with present petitioner is to be determined and therefore, custodial interrogation of the petitioner is required because petitioner by misusing his official position has put pressure upon the complainant in connivance with other co-accused and committed cheating/forgery with him. This Court is unable to agree with the contentions raised by the learned counsel for the petitioner in view of the conduct of the petitioner and keeping in view the gravity of the offences and facts and circumstances of the case.

In view of the above, petition sans merits and is dismissed accordingly.

However, nothing stated hereinabove shall be construed as a final expression of opinion on the merits of the case.

17.01.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No