

CRM-M-54417-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54417-2023
Reserved on: 29.11.2023
Pronounced on: 13.12.2023

Kuljit Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Karnail Singh, Ahhi, Advocate
for the petitioner.

Mr. Ravinder Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0295	29.09.2023	Sadar Mansa	409 IPC, 52 A of Prisons Act, Sections 7, 8, 11, 13(1)(D) of PC Act and 66C, 66D of IT Act and 27 A of NDPS Act

1. The petitioner apprehending arrest in the FIR captioned above, had come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. Vide order dated 31.10.2023, the petitioner was granted interim protection, which is continuing till date.
3. Facts of the case are being extracted from reply dated 14.11.2023 filed by the concerned DySP. Investigation started on receipt of communication from IG, Jail, Head Quarter, Punjab, Chandigarh, alleging that relatives of inmates are sending money to them through Google Pay in their accounts, in connivance with jail officials. On 18.07.2022, one Subhash, was released from jail and he recorded his interview to media in this regard. Petitioner-Kuljit Singh who was posted as Assistant Superintendent, District Jail, Mansa, was also named in the above said interview. Investigation revealed that after release from jail, said Subhash informed the media that in District Jail, Mansa, narcotic substance, mobile phone, tobacco are available and further some barracks are also rented out. In addition to that, inmates are permitted to bring goods from their homes on payment of money to jail officials. Further the jail canteen was selling goods on higher rates than the normal price and further they would provide them cell phone

CRM-M-54417-2023

on hourly payment basis and money was being paid to jail superintendent and Deputy Superintendent. It was further complained that when the Director General of Prisons had visited the jail, then the jail officials had warned them not to inform the DGP about these activities and further holes were made in the floor to hide mobile phones and narcotics and some barrack was not changed for a year. Faced with these allegations, Additional Director General of Police had appointed Deputy Inspector General, to conduct the investigation in the matter. Investigation found the allegations levelled by Subhash to be correct to some extent and for that reason, the FIR was registered. As per para 4 of the reply, police found involvement of the petitioner in addition to other officers. State is opposing the bail on the grounds that interrogation is required to know modus operandi.

4. It would be relevant to extract para 4 of the said reply filed by DySP, which reads as follows:-

"ROLE OF PETITIONER

That petitioner is actively involved in the supply of drugs inside the jail and there are certain financial transactions which have been traced and the role of petitioner with respect to both the above aspects is being investigated thoroughly. The custodial interrogation of the petitioner shall be of utmost importance as the matter is very serious and the entire nexus needs to be unearthed."

5. I have heard counsel for the parties and gone through the pleadings and analysis of the same would lead to the following outcome.

6. Petitioner has relied upon Annexure P-3 which is a complaint made by the petitioner-Kuljit Singh, Assistant Superintendent, District Jail, Mansa, on 03.07.2023 i.e. prior to date of release of Subhash from jail i.e. 18.07.2023 as per para 6 of the petition. Therefore, it reveals that prior to release of whistle blower Subhash, the petitioner had written a letter to SHO, Police Station Sadar Mansa, in which he mentioned that on 03.07.2023, he had made a surprise check and he recovered one phone make Samsung keypad of white colour alongwith VIP sim, battery and one abandoned touch screen mobile of Redmi company of blue colour along with sim of Airtel company. Petitioner has also referred to one Criminal Writ Petition No.9891 of 2023, filed by Subhash Kumar on 03.10.2023, in which he had sought protection of his life because he was apprehending threat at the hands of Amarjit Singh Bhatti, Bimal Tej Singla and Nirmal Singh and petitioner was not named as a person who had any threat. However, vide order dated 07.10.2023, said Subhash Kumar withdrew the writ petition and Coordinate Bench of this Court had passed the following order:-

"After arguing for some time and realizing that there is no specific incident narrated or substantiated in the petition forming the basis of a

CRM-M-54417-2023

threat apprehension, learned counsel for the petitioner is not pressing the present petition at this stage.

Dismissed as not pressed."

7(a) The petitioner's counsel has also referred to Annexure P-5 which is a complaint made by whistle blower Subhash Kumar on 25.08.2023, to the Senior Superintendent of Police, Mansa, District Mansa, as per which allegations were made against Jail Superintendent Bhatti and Deputy Bimal Tej Singla and Head Constable Nirmal Singh. Petitioner's specific stand is that he has unblemished record and he is ex-serviceman and he has become eyesore to corrupt officers and because he refuse to come into their illegal attempts. It would be relevant to extract para 10 of the petition, which reads as follows:-

"10. That in fact, the petitioner is a torch bearer and has raised voice against illegal activities happening at the jail premises and earlier the services rendered in District Jail, Mansa the petitioner recovered the objectionable items from the convicts/under trials like Mobile Phones etc. near about 20-30 complaints sent to the concerned Police Station against the earring convicts/under trials. The petitioner checked Block No.1, Barik No.09 on 03.07.2023 at 10.30 A.M. with the assistance of other officers. On search from Joginder Singh, S/o Jaimal Singh, R/o Ghuman Kala one Mobile make Samsung was recovered and vide letter No.3723 dated 03.07.2023, request was moved to the PS Sadar, Mansa to take the legal action against the persons concerned. One Subhash Kumar alias Subhas Arora S/o Makhan Lal, involved in FIR No.106 dated 15.11.2022 etc. was confined in the said Barrack. Due to the upright conduct and honesty of the petitioner, he became an eyesore to the other officials who engaged in such illegal activities and the implication of the petitioner falsely in this case is a result of vengeance and this FIR is just a tool of vengeance. A copy of the letter dated 03.07.2023 is annexed herewith as Annexure P-3."

8. Although as per reply, the specific stand of the DySP is that the petitioner was supplying drugs to the inmates in the jail but not even a specific incident has been mentioned. Considering the fact that the petitioner was ex-serviceman and he had already filed complaint about recovery of phone and sim card from inmates and also that he explicitly took a stand that because of his extreme honesty the corrupt officials are not comfortable with him in case stand of the petitioner is found to be correct it would amount to great and massive injustice to him. This Court is not dealing with final outcome of the criminal trial but also considering bail and as such observations and analysis are only for the purpose of bail.

9. Given above accused is able to make out a prima facie case for bail on preponderance of probability and he is entitled to benefit of doubt, only for the

CRM-M-54417-2023

purpose of bail. However it is clarified that these observations are only for the purpose of bail and have no bearing for whatsoever in the investigation.

Given above, interim order dated 31.10.2023 is made absolute and petition allowed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

13.12.2023
anju rani

Whether speaking/reasoned:	Yes
Whether reportable:	No.