

CRM-M-54542-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54542-2023
Reserved on: 24.11.2023
Pronounced on: 02.12.2023

ASI Pawan Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. P.S. Poonia, Advocate and
Mr. Pulkit Dhanda, Advocate for the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana (Through VC).

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
19	28.09.2023	ACB, Sector-17, Panchkula	7, 7A, 13(1)(b) read with Section 13(2) of Prevention of Corruption Act 1988 (Amended 2018) and 120-B IPC

1. The petitioner who is posted as ASI in Haryana police, apprehending arrest in the FIR captioned above, had come up before this Court by filing the present petition on 26.10.2023.
2. Vide order dated 30.10.2023, the petitioner was granted interim bail by this Court subject to compliance of some conditions, which is continuing till date. On 17.11.2023, petitioner’s counsel stated that they would file affidavit by declaring assets of the petitioner as well as his spouse, to show their bona fide and to prove that they are innocent and not involved in the present case.
3. Facts of the case are being taken from Para 2 of the reply dated 08.11.2023 filed by the Deputy Superintendent of Police.

“2. That the instant case was registered on the complaint of Bilal to the effect that on 21.09.2023, 4/5 police officials had come to his house in his absence. On inquiry by his mother, they told that they had arrested one person named Sabir in NDPS Act and name of her son Bilal (complainant) had surfaced in his disclosure statement. They asked her to send her son Bilal to Narcotic Cell, Yamuna Nagar. While leaving, two officials told their names as ASI Pawan Kumar (petitioner) and Mahbub Ali. ESI Mahbub Ali gave his mobile No. 8708749106 and 8818000248 for contacting him. On 22.09.2023, his uncle Sajid visited police station alongwith respectable

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persons and met Mahbub Ali. Mahbub Ali told that the case is being looked after by ASI Pawan (petitioner) and he will get the matter settled for Rs. 2,50,000/-. He further told that they should further contact in this regard with his brother Islam, who is resident of village Jadoli near village Gheed, District Karnal. He also gave mobile number of Islam i.e. 9671414528. On the asking of Mahbub Ali, the complainant along with his mother Imrana reached village Jadoli and met Islam, who took them to the house of Mahbub Ali at village Raipur, District Yamuna Nagar. Mahbub Ali demanded Rs. 2,50,000/- from them and after bargaining, matter was settled for Rs. 1,50,000/-. He further averred that on 27.09.2023, he talked with Islam from his mobile No. 7060111007 and requested for taking less amount, on which Islam told that they will have to pay at least Rs. 1,40,000/-. The complainant requested for one day time from Islam. He stated that on 27.09.2023, he had recorded conversation in his mobile. It was further averred that he wanted to get caught him red handed while paying Rs. 1,40,000/-. In addition to it, complainant made him to hear one audio recording. Statement under section 164 Cr.P.C dated 29.09.2023 of complainant, Arshad Chaudary uncle of complainant and statement of shopkeeper Pritam are annexed as Annexure R-1 (Colly)."

4. In the nutshell, the complainant Bilal had informed the police that on 21.09.2023, 4-5 police officials had come to his house and told his mother that one Satbir was arrested by them in an NDPS case and further, name of her son (Bilal) had come up in disclosure statement of Satbir. They had directed Bilal's mother to send him to Narcotic Cell. From the above said police officials, two of them had told their names as ASI Pawan Kumar (present petitioner) and ESI Mahbub Ali. ESI Mahbub Ali had also provided his phone number for contacting them. On the next day i.e. 22.09.2023, Sajid- Uncle of Bilal, had gone to the police station along with people and contacted ESI Mahbub Ali who told that the case was being investigated by the petitioner-ASI Pawan Kumar and they can settle the matter for Rs.2,50,000/-. He further told them to contact his brother Islam and also gave them phone number of his brother Islam. Subsequently, the complainant along with his mother met Islam who took them over to the house of ESI Mahbub Ali and he demanded Rs.2,50,000/- and the matter was settled for Rs.1,50,000/-. On 27.09.2023, the complainant talked to Islam and after bargaining, the matter was settled for Rs.1,40,000/-. The complainant had made video recording about this and his statement was also recorded under Section 164 CrPC. Subsequently, Islam was caught red handed with money. The evidence against the petitioner is based on the disclosure statement of Islam, who is brother of ESI Mahbub Ali.

5. Petitioner's counsel has sought bail on the grounds that the petitioner was not investigator as on 21.09.2023 because that investigation had been transferred to another Investigating officer.

6. It remains undisputed that there is no conversation between the petitioner and

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complainant’s family, simply because ESI Mahbub Ali’s brother-Islam, had named him as the investigator through whom they will get the work done. This cannot be taken as gospel truth and these might be their tactics to do *thuggee* to extract maximum possible money.

7. Given above, it is neither a case for custodial interrogation nor for pre-trial custody. Consequently, petition is allowed and interim order dated 30.10.2023 is made absolute. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

02.12.2023
anju rani

Whether speaking/reasoned:	Yes
Whether reportable:	No.