

CRM-M-55270-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55270-2023
Reserved on: 29.11.2023
Pronounced on: 13.12.2023

Bhivam Tej Singla ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Arav Gupta, Advocate
for the petitioner.

Mr. Ravinder Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0295	29.09.2023	Sadar Mansa, District Mansa, Punjab	409 IPC, 52 A of Prisons Act, Sections 7, 8, 11, 13(1),13(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 06.11.2023, 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 in connected petition i.e. CRM-M-54417-2023, 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-Bhivam Tej Singla, 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

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price and further they would provide them cell phone 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.

4. State is opposing the bail on the grounds that interrogation is required to know modus operandi.

5. Role of the petitioner is mentioned in paras No.2 to 3(iii) of reply filed in this petition. It would be relevant to extract paras No. 2 to 3(iii) of the said reply filed by DySP, which reads as follows:-

"2. It was further found mentioned therein that during investigation the allegations levelled by Subhash Kumar are found correct and in view of the same it is found that some employees of Jail in collusion with some inmates through their relatives and known persons, they all in connivance with each other are doing illegal and criminal activities in the Jail. Like illegally supplying mobile phones and narcotics substances in the Jail, renting out barrack in the Jail, holes carved out in the jail for hiding mobile phone/illegal things, for depositing money in different person's account through Google Pay ID, in bank account No. 50100392223242 and account No.50100585620683 of HDFC Bank and these illegal activities in the District Wall Mansa was carried out in connivance with Assistant Superintendent Bhivam Tej Singla, District Jail Mansa (Petitioner), Assistant Superintendent Kuljeet Singh and Sh. Sandeep Singh, Pharmacy Officer and inmates of Jail namely Amarjit Singh son of Lakhvir Singh, convict Ankur Mehta son of Subhash Chander etc, who used to transfer money through Google Pay ID in the account of their relatives sitting outside the Jail from the account of relatives of inmates confined in Jail.

(3) In view of the above mentioned facts, vide the orders of S.S.P. Mansa, FIR No. 295, Dated 29.09.2023, Under Section 409 IPC, 52-A Prisons Act, 7/8/11/13(1) (D) PC Act, 66C/66/D IT Act and 27-A of NDPS Act was registered against the above named accused persons i.e. (1) Assistant Superintendent Bhivam Tej Singla, District Jail Mansa (Petitioner), District Jail Mansa, (2) Assistant Superintendent Kuljeet Singh, District Jail Mansa, (3) Sandeep Singh Pharmacy Officer, District Jail Mansa, (4) Prisoner Amarjeet Singh son of Lakhvir Singh, District Jail Mansa and (5) Convict Ankur Mehta son of Subhash Chander, District Jail Mansa, at Police Station, Sadar Mansa, District Mansa, at Police Station Mansa, District

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Mansa.

(ii) After the registration of present case/FIR, investigation of the present case/FIR was got conducted through the answering deponent i.e. DSP, Sub Division Mansa, District Mansa. During the course of investigation proceedings, statements of witnesses were recorded by the answering deponent.

(iii) On 07.11.2023, in compliance of the order dated 31.10.2023, passed by this Court Hon'ble Court, accused Kuljit Singh had joined the investigation with the answering deponent. However, in compliance of the order dated 06.11.2023, passed by this Hon'ble Court, petitioner Bhivam Tej Singla, had joined the investigation with the answering deponent on 08.11.2023. After joining both the above named accused persons in the investigation proceedings, both the accused persons were released on bail by the answering deponent, on furnishing of personal bonds by them. However, investigation from the accused persons including the petitioner. In order to ascertain the modus operandi, role of other persons involved in the commission of offence, for collection of record, custodial interrogation of the accused persons including the petitioner, is required to the IO. After completion of the investigation challan against the accused persons including the petitioner, will be presented before the Ld. Trial Court. In case, accused persons are granted with the concession of anticipatory bail there are chances of running of the accused persons from the trial of the case, winning over the witnesses of prosecution and tampering with the prosecution witnesses. In these circumstances, petitioner does not deserve the relief of anticipatory bail or any other alternative relief from this Hon'ble Court and present petition deserves to be dismissed qua the answering respondent."

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

7. Petitioner has relied upon Annexure P-7 which are the complaints made by the petitioner-Bhivam Tej Singla, Assistant Superintendent, District Jail, Mansa, on various dates in the month of June & July i.e. prior to date of release of Subhash from jail i.e. 18.07.2023 as per para 8 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 17.06.2023 at 11 AM in the morning, during the search of the Barrack No.2 of Block No.03, the unclaimed phone of company Samsung in black colour was recovered from the pit of the bathroom of Barrack No.2 by the Warden Nirmal Singh 1362 and Warden Kamaljit Singh 1354. In an other complaint, it is informed that on 14.07.2023 at 6.40 AM in the morning, 04 fokas was recovered on the backside of Block No.03 by him and Warden Constable Nirmal Singh 1362 and on opening of these fokas by the higher authorities, 45 packs of tobacco, 07 packets of Biri bundles were recovered in unclaimed condition. Petitioner has also annexed copy of his

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bank statement as well as his family members, to show that he has not taken any bribe or gratification for which he can be arrested under within the definition of Prevention of Corruption Act.

7. Although as per reply dated 14.11.2023 filed in this petition, 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 an 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 were 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.

8. 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 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 06.11.2023 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.