

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-60759-2023 (O&M)
Date of order: 15.12.2023

Sanjay Kumar
... Petitioner(s)
Versus
State of Haryana
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. A.P.S. Deol, Sr. Advocate with
Mr. H.S. Deol, Advocate
for the petitioner(s).

Mr. Rajat Gautam, Addl.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
04	22.11.2021	State Vigilance Bureau, District Rohtak	7 of the Prevention of Corruption Act, 1988.

1. Apprehending arrest in the FIR captioned above, the petitioner, who was a Sub Inspector of Police, had come up before this Court by way of present petition under Section 438 CrPC on 01.12.2023.
2. In paragraph 9 of the bail petition, the accused declares that they have no criminal antecedents.
3. Counsel for the petitioner submits that the petitioner has joined the investigation and has complied with the conditions stipulated in the interim order.
4. State has filed reply in Court which is taken on record. State’s counsel does not dispute the contentions raised on behalf of the petitioner.
5. I have heard counsel for the parties and gone through the pleadings.
6. Facts of the case are extracted from paragraph 1 of the reply dated 14.12.2023 filed by the State by way of affidavit filed by concerned DySP, which read as under:-

- "1. That a criminal case FIR No.04 dated 22.11.2021 under section 7 of P.C. Act was registered in Police Station SVB Rohtak on the complaint of Surender son of Sh. Bhim Singh with the allegations that he is resident of Kharkhoda. District Sonipat and working as driver on Maruti ECO no.HR-AF- 1175 owned by Sumit Sharma. On the night of 1.07.2021, he alongwith his friend Krishan Kumar were coming to Kharkhoda from Bahadurgarh in the said car and a verbal confrontation took place with the railway guard at Railway Crossing Barahi and FIR No.18 dated 02.07.2021 P.S. GRP Bahadurgarh was got registered against them. Present petitioner SI Sanjay was investigating officer of the case. The petitioner demanded bribe of Rs.10,000/- for removing the name of his friend Krishan and to release him on bail. His friend has already given an amount of Rs.4000/- to the petitioner and as per settlement, remaining amount of Rs.6000/- has to be paid by his friend Krishan. The conversation of his friend Krishan from his Mobile No.09466425771 with Mobile No.9812278454 of petitioner took place on 30.09.2021 at conversation was about 1 PM and said recorded by his friend Krishan. On the basis of complaint, formal FIR under section 7 of P.C. Act was registered. Inspector Rakesh Kumar commenced the investigation into the case and a raiding team was constituted and raiding team along with complainant reached near PS GRP Bahadurgarh but after some time complainant and shadow witness returned back and stated that the petitioner did not come to police station for taking the remaining amount.
2. That there are specific allegations against the petitioner regarding demand of bribe on mobile by the petitioner and conversation was recorded and voice sample of petitioner was sent to FSL Madhuban which was matched with the recorded voice (copy attached as Annexure R-1). As per transcript, There is clear acceptance of receiving of bribe amount of Rs.4000/- and regarding demand of balance amount of bribe.

That the FIR No.18 dated 02.07.2021 P.S. GRP Bahadurgarh was registered against the two unknown persons by the petitioner. The petitioner joined the investigation suspected person Surender Kumar on 20.09.2021 and after completing the formalities, he put challan against him in the Court. Second unknown person known as Krishan Kumar but the petitioner/investigation officer of the above said case demanded bribe from the complainant Surender Kumar for removing his friend name from already registered FIR.

The complainant and his friend Krishan gave their statements u/s 164 CrPC on 23.11.2021 before the Ld. Court of JMIC, Rohtak, in which they also stated that petitioner had demanded remaining amount of bribe i.e. Rs. 6000 for removing the name of Complaint's friend from FIR which was already registered in Police Station G.R.P Bahadurgarh.

That the calls details record (CDR) of petitioner and complainant mobiles was taken and got compare, which is clear indicate that the petitioner and complainant were regular in touch during this period."

7. Vide order dated 4.12.2023, this Court had granted interim anticipatory bail to the petitioner which is continuing till date.

8. Admittedly, the allegations of bribe pertain to 1.7.2021 and out of the aforesaid demand of bribe of Rs.10,000/-, friend of the complainant namely Krishan Kumar had paid Rs.4,000/- and the remaining amount of Rs.6,000/- was to be paid by him. On

30.9.2021, they recorded the conversation between the petitioner and said Krishan Kumar and apprised the investigator, which led to registration of the FIR. During the pendency of the FIR, the complainant and Krishan Kumar gave statements under Section 164 CrPC, in which it was stated that the petitioner demanded the remaining amount of Rs.6,000/- for removing the name of Krishan from the FIR registered by GRP, Bahadurgarh. However, there is no evidence that the petitioner was paid Rs.6,000/- or that he had received the said amount. Initially, the petitioner was not arrested but while summoning him under Section 160 CrPC, his voice samples were taken. After that, no notice was issued under Section 41A(3)(f) CrPC. He also retired from service. Thus, in the entirety of facts and circumstances of the present case, it is neither a case for custodial interrogation of the petitioner nor his pre-trial incarceration.

9. Given above, the petition is allowed and interim order dated 4.12.2023 is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

December 15, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes