

CRM-M-4347-2024
Decided on: 29.01.2024

Raman Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Anil Mehta, Advocate and
Mr. Varun Dutta, Advocate
for the petitioner.

Ms. Shubhra Singh, Addl. AG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
36	16.09.2022	State Vigilance Bureau, Gurgaon	120B, 409, 420, 467, 468, 471 of Prevention of Corruption Act 1988 and 13(1)(a) & 13(1)(b) IPC

1. Aggrieved by the issuance of non-bailable warrants, the petitioner has come up before this Court seeking quashing of orders dated 30.10.2023 (Annexure P-5), 30.11.2023 (Annexure P-6) & 04.01.2024 (Annexure P-7), passed by the Additional Sessions Judge, Nuh.
2. The nature of order this Court proposes to pass, no response is required from the State and no notice is required to issue to respondent No.2.
3. Facts of the case are being taken from the pleadings itself and as per which, a complaint was filed by one Mahender R/o Rewari, against Shamsher Singh, Executive Engineer and Arshad, Junior Engineer, Public Works Department (Building & Roads Branch), with the allegation of issuing fake receipts at Toll Plaza TP-39. The investigator Jai Chand submitted a report regarding Toll Plaza and conducted investigation. The investigation revealed that the officials posted at Toll Plaza were issuing fake receipts and getting bribe to the tune of Rs.20/30,000/- per day and the collected amount was shared by the officials between them.

4. Petitioner's counsel submits that the petitioner is not a government official and he has un-necessarily being arraigned as an accused. He further submits that after filing of the police report, trial Court had issued non-bailable warrants on 26.05.2023. Petitioner's grievance is that before filing of chargesheet, he did not receive any summons or bailable warrants. Petitioner's counsel further submits that concerned Court has issued non-bailable warrants in mechanical manner. He has drawn attention of this Court to order dated 26.05.2023, wherein, non-bailable warrants were issued against Rajuddin, returnable for 10.08.2023 and when the matter was listed on 10.08.2023, parties could not appear because of imposition of Section 144 CrPC due to law and order problem and as such, the matter was adjourned to 16.09.2023, on which date, fresh non-bailable warrants were issued against Rajuddin, returnable for 30.10.2023. Non-bailable warrants issued against Rajuddin were not received back in any form and then issued again for 30.11.2023. However on 30.11.2023 trial court straightway issued non-bailable warrants even against the petitioner and also against one Wasim Akram and surety. The said order is extracted as below:-

“Today the case was fixed for issuing NBW against accused Rajuddin, Wasim Akram and Raman and their surety. Non-bailable warrants issued against accused Rajuddin, Wasim Akram and Raman received back unexecuted. Let fresh non-bailable warrants of accused Rajuddin be issued for 04.01.2024.”

5. Petitioner's counsel submits that prior to this NBWs at no point of time, bailable warrants were issued against the petitioner or served against him and straightway non-bailable warrants were issued against him. Earlier orders clearly point out that non-bailable warrants were issued against Rajuddin and further on 10.08.2023, the case was not taken up because of law and order problem when Section 144 CrPC had been imposed in the said area. Petitioner's counsel submits that petitioner is a student and resides in Agra. He undertakes to appear on each and every date and also on the date which this court directs him to appear this time.

6. An analysis of the order sheets clearly points out that there is no reference in the impugned order dated 30.11.2023 that prior to passing of the said order, on which date summons or bailable warrants issued against the petitioner-Raman Kumar. Needless to say that stage of issuance of non-bailable warrants were come when the service could not be effected through summons or bailable warrants. The impugned order dated 30.11.2023 is conspicuous silent.

7. Given above, present petition is allowed and order dated 30.11.2023 (Annexure P-6), is quashed and set aside qua the petitioner, subject to the condition that petitioner

shall put in appearance before the trial Court on or before 09.02.2024 and in case, he fails to do so, it would imply that despite petitioner’s knowledge, he avoided appearance before the concerned court and based on such assumption, present order shall stand recalled automatically without reference to this Court under Section 362 read with 482 CrPC.

All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

29.01.2024
anju rani

Whether speaking/reasoned:	Yes
Whether reportable:	No.