

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

...Petitioner

...Respondent

Ms. Swati Batra, DAG, Punjab (Through VC).

* * * *

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
02	12.01.2024	Vigilance Bureau, Ludhiana	7, 7A of Prevention of Corruption Act 1988 as amended by the Amendment Act 2018 and 120-B IPC

3. Prosecution's case is being taken from reply dated 19.02.2024, which reads as follows:-

“2. That the present case FIR No. 02 dated 12.01.2024 under sections 7, 7- A of the Prevention of Corruption Act 1988 as amended by the Amendment Act 2018 and section 120-B IPC, Police Station Vigilance Bureau, Ludhiana has been registered against the present petitioner Chamkaur Singh Patwari and his private associate Ashok Kumar on the basis of statement made by complainant Rakesh Kumar, wherein it has

been stated that the complainant is doing construction work and on 31.05.2023, he had purchased Plot No.15 measuring 75 sq. yards situated at Village Lohara in the name of his wife Renu Bala for an amount of Rs.2,03,000/- and mutation of that plot was yet to be sanctioned. On 11.01.2024, the complainant along with his son Mayank went to the Patwarkhana Giaspura, District Ludhiana in order to get the mutation sanctioned. At that time, Patwari Chamkaur Singh i.e. the present petitioner was present in the Patwarkhana, as such, the complainant asked him to register the mutation of his registry and to provide 30 years old record. On this, present petitioner Patwari Chamkaur Singh asked the complainant to meet his representative (Karinda) Ashok Kumar (Co-accused), who was also present in the Patwarkhana at that time.

3. That on the asking of the Patwari, the complainant met Ashok Kumar in the Patwarkhana. After that, Ashok Kumar talked with Patwari Chamkaur Singh and then he had told the complainant to meet him outside the Patwarkhana. The complainant was having suspicion that Ashok Kumar, who is Karinda of the Patwari, will demand more money free him apart from the fees and thus, the complainant put his mobile phone on recording mode and thereafter, he went outside the Patwarkhana along with Ashok Kumar. Ashok Kumar asked the complainant about his work, upon which, the complainant told him to sanction the mutation and issue 30 years old record since he has to take loan from the bank. On this, Ashok Kumar told the complainant that first the mutation is required to be sanctioned and thereafter, 30 years old record will be issued. Ashok Kumar demanded a sum of Rs. 6000/- in lieu of doing the work of the complainant i.e. Rs. 1500/- for sanctioning the mutation, Rs. 1500/- late fees and Rs. 3000/- for providing 30 years old record at the rate of Rs. 100/- per year. At that time, the complainant returned back, but he had recorded the entire conversation. On inquiry, the complainant came to know that the actual fees for his work is very nominal whereas Chamkaur Singh Patwari and his representative (Karinda) Ashok Kumar are demanding Rs.6000/- as bribe in lieu of doing his work. Hence, the complainant made a complaint against them at Vigilance Bureau Ludhiana and also produced one CD containing conversation between the complainant and Ashok Kumar Karinda of the present petitioner and currency notes of Rs.6000/- before the investigating officer of Vigilance Bureau officials. Thereafter trap was laid and Co accused Ashok Kumar, Karinda was apprehended red handedly while accepting bribe money of Rs 6000/- from the complainant in the presence of official witnesses and the petitioner had managed to escape from the spot. Copy of transcript with regard to the recording/conversation between the complainant and Ashok Kumar Karinda of petitioner is attached herewith as Annexure R-1.

4. That in the present petition the petitioner has laid stress on the point that he had neither demanded nor accepted any illegal gratification from anyone at any point of time, rather alleged demand and acceptance of illegal gratification is attributed to the co-accused, who has already been arrested in the case. However, this contention is not coming to the help of the petitioner at this stage because it is specific allegation of the

complainant in the FIR that at the first instance, he had approached the petitioner and requested him to do his work, but the petitioner asked the complainant to meet his representative in connection with his work which clearly proves the fact that both the accused while working in close connivance with each other demanded and accepted illegal gratification from the complainant in lieu of doing his work. They put the complainant in such a position that he will not be able to say no to their illegal demand. The co-accused Ashok Kumar was working as extended arm of the petitioner. The custodial interrogation of the petitioner is very much required to reach the truth.

5. That the provisions of section 438 of the Criminal Procedure Code are in the nature of an exception to general rule that an investigating agency must be given a free reign to arrive at the truth. The law is well settled that the provisions contained in Section 438, Criminal Procedure Code, relating to anticipatory bail are to be sparingly invoked and not in routine therefore, the petitioner is not entitled to the concession of anticipatory bail and the present petition filed under Section 438 CrPC is liable to be dismissed.”

4. Petitioner seeks bail on the ground that Ashok Kumar is a Thug and he takes money in the name of government officials including the present petitioner-Patwari and even in this case, Ashok Kumar had taken money by mis-representing that Patwari asked him to do so. He further submits that complainant is telling a lie that petitioner had asked him to meet Ashok Kumar. It is also submitted that the people like Ashok Kumar have defamed the honest government servants like petitioner, who had demonstrated his honesty by declaring his assets, as such he should not be sent to pre-trial custody.

5. State counsel opposes the bail by stating that when the complainant Rakesh Kumar after purchasing plot in the name of his wife had gone for attestation of mutation, then on 11.01.2024, he had met Patwari-Chamkaur Singh in the Patwarkhana. At that point of time, petitioner asked the complainant to meet his representative (Karinda) Ashok Kumar who was present at the Patwarkhana. On asking of the Patwari, complainant met Ashok Kumar and in their presence, Ashok Kumar had talked with Patwari Chamkaur Singh and then they had asked the complainant to meet outside Patwarkhana. The complainant recorded the conversation between him and Ashok Kumar. State counsel further argued that Ashok Kumar told the complainant that mutation is required to be sanctioned and Ashok Kumar demanded a sum of Rs.6,000/- for that work. The complainant realised that real fee was very less and in fact Ashok Kumar in connivance with petitioner, was asking for extra money, as such, reported the matter.

6. An analysis of the arguments would lead to the outcome that if the petitioner had to deal with the complainant by way of money then on the face of it, there was no need to introduce Ashok Kumar and it is for the reason that as per the complainant, Patwari

after introducing Ashok Kumar, spoke to Ashok Kumar in presence of the complainant which is highly doubtful. Thus, the amount involved in the present case and coupled with the fact that petitioner has demonstrated his truthfulness by declaring assets, it is neither a case of pre-trial custody nor custodial investigation.

Petition is allowed. Interim order dated 09.02.2024, is made absolute. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

21.02.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.