

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7618-2024 (O&M)
Date of order: 28.02.2024

Sumit @ Monu
... Petitioner(s)
Versus
State of Haryana
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
Present:- Mr. Anshuman Dalal, Advocate
for the petitioner(s).
Mr. Naveen K. Sheoran, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
428	5.12.2023	Arya Nagar, District Rohtak, Haryana	7 & 13 of the Prevention of Corruption Act, 1988.

1. The petitioner incarcerated in the FIR captioned above since 19.12.2023 had come up before this Court under Section 439 CrPC, seeking bail.
2. Vide order dated 21.02.2024, this Court considering the nature and veracity of allegations as well as the custody, granted interim bail to the petitioner primarily on the ground that the petitioner along with his spouse had voluntarily agreed to declare their assets.
3. Today, counsel for the petitioner, on instructions, submits that they have complied with the conditions contained in paragraph 14 of the said interim order, declaring his assets as well as of his spouse and also submits that they would not claim it self-incriminatory or violative of their rights under Articles 20/21 of the Constitution of India, Indian Evidence Act or any other law in force.
4. I have heard counsel for the parties and gone through the record.
5. Prosecution’s case is being extracted from reply dated 22.02.2024 filed by the State by way of affidavit of the concerned DySP, which reads as under:-

"2. That the above-said case has been registered on the basis of complaint moved by complainant Maninder s/o Yatender R/o Village-Kutana, Distt.-Rohtak on C.M. Window vide complaint No.1277-CMW dated 29/9/2023 which was received in the office of Superintendent of Police, Rohtak on 5/12/2023. In his complaint the complainant disclosed that his father Yatender Singh son of Rajender Singh was owner in possession of land measuring 24 Kanal in village Kutana, Tehsil and District Rohtak, bearing khewat no.69 khata no. 85, Kilta no.2/22/1, 23, 13/4, 7, 14/1, 2, 3, 4, 25/1,2, 3, 3/1, 4, 5 to total number 14 total measuring 24 Kanal. The father of complainant died on 15.03.2017. After his death, complainant, his mother Sunil Kumari and sisters Arti and Rashmi are four heirs and after his death the four of them are owner in possession of the above-said property. On above said property in Killa no.13/4, 7, 14/1, 2/22/1 measuring 815.47 Sq. Yards there is construction, whose property ID as per municipal corporation record is 1H9J2EM3 (Area situated near IDC Hisar Road, Rohtak). The complainant and his both sisters want to relinquish their above-said constructed to area i.e. property no. 1H9J2EM3 in favour of their mother Sunil Kumari and for this purpose they prepared the documents from Tehsil Rohtak, so that the mother of complainant can obtain the loan on said property. At that time the complainant and his friend Ankit Hooda son of Sushil,, resident of village Khidwali, Tehsil and District Rohtak went to verify the documents and they came to know that for execution of relinquish deed it is necessary to get NOC and property tax etc cleared from Municipal corporation Rohtak. After this the complainant and his friend Ankit Hooda went to office of Municipal Corporation Rohtak, where they met Sandeep Khokhar, who introduced himself as Kanungo. Later on, the complainant inquired and came to know that Sandeep Khokhar is really working there as Kanoongo. Sandeep Khokhar trapped the complainant in his conversation and made him believe that he will get above said NOC and property tax etc. done himself. Then Sandeep Khokhar asked the complainant and his friend Ankit Hooda to come to his office Land Branch Municipal Corporation Rohtak in front of back gate of Tehsil office. On asking of Sandeep Khokhar the complainant and his friend Ankit Hooda went to above said office where Sandeep Khokhar met and his friend namely Monu Dahiya also met there and Sandeep Khokhar told that Monu Dahiya is his assistant. There Sandeep Khokhar and his assistant Monu Dahiya told the complainant after watching in their computer that the above said property has been blacklisted by Municipal Corporation and complainant cannot get any document executed regarding the same. Even otherwise, the area where the property is situated has been declared illegal by the Municipal Corporation. The complainant was very surprised and disturbed after hearing this. The complainant asked Sandeep Khokhar and his friend Monu that if anything can be arranged regarding his land by appealing to some senior official. On this Sandeep and Monu scared the complainant that if he make any application or appeal of this kind he will lose the property. The complainant was very disappointed. The complainant and his friend left from there, then, after a few days above said Sandeep Khokhar called Ankit Hooda and said that land problem of complainant has been solved and he called the complainant and his friend Ankit Hooda. Then the complainant and his friend Ankit Hooda went to office of Sandeep Khokhar at Land Department on his asking and there they met Sandeep and Monu Dahiya. They told the complainant that if he want the above said land cleared then they will write a complaint, it will have to be deposited in head office Chandigarh after getting report of Nambardar, Patwari, Tehsildar of Municipal Corporation. It will take approximately 2-3 years easily in the above said process. Upon which the complainant and his friend Ankit Hooda were disturbed on hearing this. On seeing them disturbed Sandeep and Monu said do not be afraid we have another solution to the problem. The complainant asked the solution, then Sandeep Khokhar told the other way that he will get the official ready to deposit

tax of complainant on the basis of his relations and reputation and after the deposition of money the complainant will get his NOC after clearing his property. Sandeep Khokhar and Monu Dahiya said that they will get the amount of tax reduced. The complainant and his friend believed Sandeep Khokhar and Monu Dahiya and agreed to give them the amount for tax, then complainant gave them following amount after withdrawing from the bank i.e. 1. Rs.12,50,000/- in the name of Tax 2. Rs.6,50,000/- in the name of pending tax, 3. Rs.4,50,000/- in the name Tehsildar Tehsil office 4. Rs.3,00,000/- in the name of RC Tehsildar Office, 5. Rs.2,50,000/- in the name of expenses stamp etc., 6. Rs.4,50,000/- in the name of Government fee revise policy 7. Rs.3,00,000/- in the name of building fund of Municipal Corporation 8. Rs.27,500/- in the name of registry document 9. Rs.4,50,000/- in name of getting order from the SDM. The total amount was Rs.41,27,500/-. Out of the said amount an amount of Rs.1,00,000, Rs.50,000/- & Rs.1,00,000/- were deposited via UPI of friend of complainant and complainant's sister in the account No.34841013272 pertaining to State Bank of India provided by Sandeep Khokhar on Whatsapp. Sandeep Khokhar and Monu Dahiya have taken the amount from complainant on the pretext of NOC and Property Tax, but till date no tax has been deposited by them, neither any receipt has been given to complainant, nor any NOC. etc. was issued. The complainant continuously remained in contact with accused, but they started lingering on the matter. The complainant realised that above said persons have cheated him. On the basis of said complaint present case vide FIR No.428 dated 5/12/2023 U/s 7 & 13 of Prevention of Corruption Act was registered at Police Station-Arya Nagar, Rohtak.

3. That during the course of investigation Ankit Hooda has produced a pen drive containing transcript of audio-video record, whatsapp screenshot and certificate U/s 65-B of Indian Evidence Act. From the perusal of the same it was revealed that the accused Sandeep Khokhar and Sumit @ Monu were talking about money transaction and for issuance of NOC from M.C. Rohtak.

4. That on 7/12/2023 the land record pertaining to land of complainant was obtained from Tehsil Office, Rohtak. On 11/12/2023 account details regarding transaction done by Ankit Hooda vide account No. 3570947890 pertaining to Central Bank of India, Rohtak to Paytm payment bank account No. 918222908484 and account statement of account No.34841013272 pertaining to State Bank of India of accused Sandeep Kumar were obtained and from perusal of the same it was revealed that on 29/4/2022 an amount of Rs.27,500/- and on 16/5/2023 on Rs.50,000/-, Rs.50,000/- and Rs.1,00,000/- were transferred the account of accused Sandeep.

5. That on 15/12/2023 the accused Sandeep was joined in investigation and was arrested and I-phone-13 with mobile No.9355999733 was recovered. On 16/12/2023 his disclosure statement has been recorded and as per his disclosure statement he demarcated the place of occurrence. On 17/12/2023 the search of house of accused Sandeep was conducted and 4 papers of land pertaining to complainant and one mobile I-phone and one Samsung phone were recovered.

6. That on 18/12/2023 Manager of Equitas Small Finance Bank has submitted the account statement of account No. 108222908484 pertaining to Arti Nandal W/o Ankit and from perusal of the same it has been revealed an amount of Rs.1,00,000/- been transferred in the account of accused Sandeep on 16/5/2022. Thereafter the accused Sandeep again was joined in investigation and his disclosure statement has been recorded in which he has disclosed that out of amount received from complainant in lieu of issuing NOC, he has paid an amount of Rs.2 lacs to his landlord Ajay Maan S/o Ram Kishan R/o H.No.2079 Sector-2P, Rohtak, because he has borrowed Rs.2 lacs from him and he has returned the said amount by paying Rs.2 lacs to him. On the basis of which Ajay Maan was joined in investigation an amount of Rs.2 lacs was taken into possession by the police.

7. That on 19/12/2023 the accused Sumit @ Monu (petitioner) was joined in investigation and was arrested by police and a i-phone with SIM No. 9728970505 was recovered from him. The disclosure statement of accused Sumit @ Monu was recorded and as per his disclosure statement he demarcated the place of occurrence and as per his disclosure statement an amount of Rs.3,00,000/- and a Hyundai Verna car No.HR-51BU-4549 (purchased by him from the amount received from complainant) were recovered.

8. That the officials of M.C. Rohtak were inquired and no involvement of any other official has been found in the incident. On 23/12/2023 the official letter No.MCR/OS/2023/1886 date 23/12/2023 regarding work distribution of the accused has been received from M.C., Rohtak. On 2/1/2024 an application of obtaining voice sample of the accused Sandeep has been filed before Ld. Special Judge, Rohtak and same is pending before the Ld. Special Judge, Rohtak. After getting the order further action will be taken as per law. The call detail of mobile No.9355999733 pertaining to accused Sandeep, mobile No.8222908484 pertaining to Ankit Hooda and mobile No.9728970505 pertaining to accused Sumit Monu (petitioner) have been obtained and on perusal of the same it has been revealed both the accused Sandeep and Sumit Monu have contacted Ankit Hooda on his mobile. The investigation in this case has been completed. Now the prosecution sanction order of both the accused have been sought from concerned department and after receiving the prosecution sanction the challan will be filed against both the accused.”

6. Petitioner seeks bail on the ground that the allegations are that Sandeep Khokhar, Kanungo had received a sum of Rs.41,27,500/- in the year 2022 and out of the said massive amount, a sum of Rs.2,50,000/- was transferred in the account of the petitioner. However, the said allegations pertained to the month of May, 2022, whereas the period of contractual deployment of the petitioner was from 1.9.2022-31.3.2023. He has referred to Deployment Offer Letter dated 3.10.2022 (Annexure P-2) issued by Haryana Kaushal Rozgar Nigam Limited, Panchkula in this regard. He has further argued that the complaint in this case was made in September, 2023, whereas the money transaction was of the previous year and thus, there is delay in filing the complaint. Further, in order to counter the allegation that he had purchased a car out of the bribe money, the petitioner referred to statement of account issued by VASTU Finserve (Annexure P-3), to show that his father had purchased a used car after obtaining a loan of Rs.5,04,881/-.

7. State’s counsel has opposed the bail on these grounds and submits that the petitioner could not explain the amount of Rs.2,50,000/- which was credited in his account and the investigation is going on regarding the amount which the petitioner had received in cash.

8. A perusal of the deployment offer letter (Annexure P-2) issued by Haryana Kaushal Rozgar Nigam Limited, Panchkula to the petitioner leads to the conclusion that the same was issued on 3.10.2022 and the petitioner was offered contractual deployment with the Municipal Corporation/Urban Local Bodies (Rohtak) from

1.9.2022 to 31.3.2023, whereas the alleged transfer of a sum of Rs.2,50,000/- in the account of the petitioner pertained to May, 2022. As such, on this ground alone, the petitioner is entitled to bail. Moreover, an analysis of the arguments raised on behalf of the petitioner suggests that the petitioner was working as Patwari in Municipal Corporation, Rohtak and he had taken bribe money from the complainant for issuing NOC. There is *prima facie* sufficient evidence against the petitioner, but this Court is not deciding the petition for quashing of FIR but a regular bail under Section 439 CrPC where the parameters are entirely different. Thus, considering the amount involved and pre-trial custody of the petitioner, which is more than 2 months and cannot be said to be less, coupled with the fact that the petitioner along with his spouse has already declared his assets, his further pre-trial custody may not be justified.

9. Given above, the petition is allowed and interim order dated 21.02.2024, is made absolute. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

February 28, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No