

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

...Petitioner

...Respondent

Mr. Ajay Beniwal, Advocate for the complainant.

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FIR No.	Dated	Police Station	Sections
17	22.11.2023	ACB Rohtak, District Anti Corruption Bureau, Haryana	7 of PC Act [13(1)(B) & 13(2) of PC Act added later on]

1. The petitioner, who was a Sub Inspector and remained in custody for around 3 months in the FIR captioned above who was nabbed red handed on the allegations of demanding and accepting Rs.60,000/- as bribe, had come up before this Court under Section 439 CrPC seeking regular bail.
2. On 16.02.2024, when the matter was listed for first time, this Court asked the State to file response. Thereafter on 21.02.2024, after considering the allegations and other factors, this Court granted interim bail and one of the reason of granting bail was that the petitioner had voluntarily agreed to declare his as well as assets of his wife, which was mentioned in para 14 of the bail order.
3. Petitioner's counsel submits that they had voluntarily complied with the order of declaring assets and it is submitted that they shall not claim such declaration as self incrimination, violation of Article 20/21 of Constitution of India or any other fundamental right/law. The investigator may verify such assets if required and proceed in accordance with law, if any anomalies found. The concerned investigator is further directed to forward one original copy of the affidavit to the petitioner's employer within two weeks from today. Counsel further submits that the custodial investigation would

serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. The State's counsel does not dispute the contention made by counsel for the petitioner, but opposes the bail and refers to relevant portion of the reply dated 27.02.2024, which reads as follows:-

1- That the present petitioner has filed the instant petition under Section 439 of the Code of Criminal Procedure 1973 seeking the relief of Regular Bail in FIR No.17 Dt 22/11/2023 under Section 7 and 13(2) of the Prevention of Corruption Act registered at P.S. Anti Corruption Bureau, Rohtak. This petition is liable to be dismissed being devoid of merits.

2- That the petitioner has not come with clean hands and has concealed the real, material, true and important facts from this Hon'ble Court. The case of the prosecution in nutshell is as under:-

i. That on 22/11/2023 Inspector Sachin was present at P.S. Anti Corruption Bureau Karnal where the complainant Amit met him and presented an application against the petitioner about demand of illegal gratification on the allegations that Sudhir S/o Suresh is his neighbourer. Deepak S/o Krishan had dispute with Rahul, Monu, Anil, Deepak, Aman and Mohit etc. qua whom Deepak got lodged an FIR No.318 Dt.6.10.2023 under Sections 148, 149, 323, 308, 452, 506 IPC at P.S. Sadar Gohana wherein petitioner was the Investigating Officer and accused were already arrested. Sudhir also apprised that the petitioner wants to falsely involve him (Sudhir) in FIR No.318. On 20/11/2023 at about 01:00 O'clock the complainant went to PS Sadar Gohana on the asking of Sudhir and met the petitioner who stated that the complainant has come to him and now he cannot free Sudhir from the case but assured to help him by leaving infirmities in the case and in lieu thereof he demanded Rs.40,000/-. The complainant paid Rs.10,000/- to the petitioner and assured to bring Sudhir with him. The complainant told everything to Sudhir. Sudhir further informed that the petitioner also wants to implicate Sachin in this case. Sachin's brother Sandeep also requested to plead their case with the petitioner on which complainant again went to P.S. Sadar Gohana on 21/11/2023 at 04:00 PM and met the petitioner who again gave response qua Sachin also and in lieu demanded gratification of Rs.50,000/-. When the complainant asked the petitioner that amount is quite huge then he demanded Rs.60,000/- gratification to help both accused Sudhir and Sachin and also said that the complainant should bring both accused and he would prepare the papers accordingly. The complainant further stated in his application that he does not want to pay Rs.60,000/- gratification and having recordings of their discussion. The complainant also produced: Rs.60,000/- to be given as gratification to the petitioner.

ii. That the crime brought to notice of Senior Officers to appoint a Gazetted witness for raid proceedings. Senior Officers, after discussion, ordered to appoint a Gazetted witness from District Panipat for the raid.

The bribe amount Rs.60,000/- produced by the complainant was taken in possession through memo by noting the serial numbers of currency notes in list duly signed by him. A raiding team of Insp. Deepak No.875/Karnal, ASI Nirmal Singh No.761/Karnal, ASI Arvind Kumar No. 1274/Karnal, ASI Baldev Singh No.624/Ambala and Ct. Parveen Kumar No.469/Karnal including the complainant was prepared. As per the nature of crime, a formal FIR No.17 Dt.22/11/2023 u/s 7 of Prevention of Corruption Act was registered at P.S. Anti Corruption Bureau, Rohtak. FIR is already annexed by the petitioner with petition as Annexure P-1 for the kind perusal of this Hon'ble Court.

iii. That Inspector Sachin with raiding team reached at G.T. Road Panipat in Govt. vehicle No. HR-03GB-1916 being driven by HC Baldev Singh No.624 and a private car for raid. The gazetted witness Pradeep Kumar Executive Engineer Panchayati Raj Panipat met who was apprised about situation by showing the orders of raid passed by the Superintendent of Police, Anti Corruption Bureau, Karnal. After reading orders, he gave his consent and Manoj Pradhan, Draftsman of Panchayati Raj office Panipat accompanied to him was appointed as shadow witness. Inspector Sachin has introduced the complainant Amit to the independent witness Shri Pradeep Kumar. Inspector Sachin presented currency notes listed by him i.e. Rs.60000/- in total i.e. 120 currency numbered notes of Rs.500/- each to match to the independent witness which was to be given as bribe and after satisfaction a memo was signed by the Gazetted witness as well as shadow witness. Inspector Sachin applied phenyl pthalene powder with the help of brush on all currency notes in the presence of gazetted and shadow witnesses. After taking back all currency numbered notes with powder, Rs.60,000/- was handed over to complainant Amit. Separate physical search of the complainant and providing currency note number to him, memo thereof was prepared duly signed by him, Gazetted and shadow witnesses.

iv. That after search of complainant Amit, he was instructed that when the petitioner would ask for bribe, he had to give these powder soaked notes and the shadow witness was instructed to stay with the complainant at a distance to hear their conversation and to see while taking the bribe and when the petitioner would receive the bribe amount, he would wave his right hand over his head to signal the raiding party. After instructions, the powder coated all currency number notes were given to the complainant Amit and separate memo of his Jamatalashi and giving of currency notes was prepared duly signed by complainant, independent as well as shadow witnesses.

v. That Inspector Sachin with reading team including complainant reached near P.S. Gohana in Govt. as well as private vehicles and after parking both the vehicles aside and as informed by the complainant, he along with the shadow witness were sent to the gate of P.S. Sadar Gohana. Inspector Sachin with raiding team was waiting for the fixed signal from the shadow witness and after sometime, the shadow witness moved his right hand on his head and made the fixed signal. After getting the confirmed signal of the shadow witness, a police official who was standing near complainant towards Gaur Sales shop on a paved street in

front of P.S. Sadar Gohana was overpowered with the help of the raiding party by Inspector Sachin and after introduced himself as well as the gazetted witness asked for his identity who identified himself the present petitioner and after that he was asked to present the bribe amount taken from the complainant, who reluctantly presented the bribe amount in his hand in Rs. 500/500 currency notes to the Gazetted witness, which were counted by Gazetted witness. On counting, it was found to be Rs.60,000/- and the numbers of all the recovered currency notes were matched with the currency note numbers in the list prepared earlier by the Gazetted witness, and on matching the same currency note numbers were found which were shown in the list of currency notes. A yellow paper envelope containing currency note number of recovered bribe Rs.60000/- was prepared duly sealed with ACB(H)/3 duly signed by the petitioner and the shadow witnesses. A sample seal was prepared by stamping ACB(H) on piece of cloth. A solution of sodium carbonate powder was prepared by pouring clean water in an empty plastic jug at the spot and both the hands of accused Ram Niwas were washed wherein the color of the solution became light pink. A memo of handwash of the petitioner was prepared by pouring the solution in a clean empty glass quarter. Similarly solution of sodium carbonate powder was prepared by pouring clean water in an empty plastic jug at the spot and both hands of the complainant Amit were washed wherein the color of the solution became light pink. Memo of handwash of the complainant was prepared by pouring the solution in a clean empty glass quarter duly sealed with ACB(H)/3 on piece of cloth.

vi. That the place of crime was inspected by Inspector Sachin and rough site- map of the spot was prepared. Two audio-recordings about discussion of bribe with the petitioner presented by the complainant with certificate u/s 65B of Indian Evidence Act were taken in possession of Anti Corruption Bureau. Transcript in Hindi and Compact Disk (CD) thereof was also got prepared later on from Cyber Cell for evidence as per law. As per nature of crime, Sections 13(1)b and 13(2) of P.C. Act were added in the case. The relevant part of the audio-recording about conversation of petitioner with Amit about bribe amount is annexed with the Reply as Annexure R-1 for the kind perusal of this Hon'ble Court.

vii. That the petitioner was arrested at the spot on 22/11/2023 by Inspector Sachin. Thereafter, the investigation was entrusted to Inspector Mahender Singh who has deposited the case property with Malkhana on 22/11/2023. After medical examination the petitioner was produced in Ld. Court on 23/11/2023 from where his police custodial interrogation was sought. On interrogation the petitioner voluntarily suffered his disclosure statement admitting therein the manner in which he has committed the crime. The complainant was produced in the Ld. Court where he voluntarily recorded his statement u/s 164 Cr.P.C. reiterating the allegations levelled in FIR. After that the petitioner was produced in Ld. Court on 24/11/2023 from where he was sent to the judicial custody.

viii. That the role of the petitioner in crime is that the petitioner was working as an Investigating Officer in P.S. Sadar Gohana since January

2023. The investigation of FIR No.318/2023 P.S. Sadar Gohana was being carried out by him. In this case, he had arrested seven accused and the arrest of other accused was pending, in which the name of Sudhir S/o Suresh and Sachin S/o Suresh R/o Village Khanpur Kalan also in his list of other accused who were pending to be arrested. On 20/11/2023, complainant Amit came to him and met him who was already known to the petitioner and had asked the petitioner to leave the name of Sudhir from the case. The petitioner relied that Sudhir's name cannot be left from the case but he can make loose Sudhir's case, will not take his police remand and will also not beat him. In return, the petitioner had demanded Rs.40,000/- from Amit for this work. After that, on demand, Amit gave Rs. 10,000/- as bribe in cash on the same day to the petitioner and left with the police station with the assurance of presenting to Sudhir before the petitioner and giving remaining bribe amount to him. After that, on 21/11/2023, Amit again came to the petitioner and said that the name of Sachin S/o Suresh R/o Khanpur Kalan also has to be deleted from the case. The petitioner got greedy and said that his name cannot be left but he will also loose his case, he will not get police remand and he will also not beat him and will not recover weapons from him, but in return the petitioner will have to pay Rs.50,000/- as bribe on which Amit said to pay Rs.60,000/- for work of both Sudhir and Sachin. On 22/11/2023, when the petitioner called, Amit had brought a bribe amount of Rs.60,000/-. At that time, the petitioner received a bribe amount of Rs.60,000/- from Amit on the pretext of loosing the case against Sachin and Sudhir. At the same time, the petitioner was caught red handed along with the bribe amount. The petitioner had spent the bribe amount of Rs.10,000/- which he had earlier taken on 20/11 / 2023 from the complainant Amit on food, drinks and luxuries. His disclosure statement is annexed with the reply as Annexure R-2 for the kind perusal of this Hon'ble Court.

5. I have heard counsel for the parties and gone through the record.
6. The evidence collected so far does points towards petitioner’s involvement but this Court is considering the bail petition and not the petition for quashing of FIR or discharge. For the purpose of bail, the petitioner’s existing pre-trial custody of about 03 months cannot be said to be less and further custody would not be justiciable. Trial is likely to take time and in case bail is not granted, it might cause irreversible damage to the petitioner, as such on this ground, petitioner is entitled to bail.

Petition is allowed. Interim order dated 21.02.2024, is made absolute. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

28.02.2024

anju rani

Whether speaking/reasoned: Yes

Whether reportable: No.