

105 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9106-2024
Decided on : 20.02.2024

Pawan Kumar Petitioner

Versus

Central Bureau of Investigation, Chandigarh Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. K.S.Dadwal, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

1. This is the second petition filed by the petitioner seeking concession of anticipatory bail in case FIR No.RC0052023A0023 dated 31.07.2023 under Sections 7, 7-A and 12 of Prevention of Corruption Act, 1988 and Section 120-B IPC registered at Police Station CBI, ACB, Chandigarh.

2. Learned counsel for the petitioner submits that the petitioner had joined the investigation pursuant to the order dated 30.10.2023 (Annexure P-5) wherein directions had also been issued to the investigating agency that in case, the petitioner was to be arrested, five days advance notice would be given to him.

It has been further submitted that despite the petitioner having duly joined the investigation and having cooperated with the investigating agency, including having given his voice samples, his

arrest was still being sought by the investigating agency on totally vague and cryptic grounds, as would be evident on a perusal of the notice of arrest served upon the petitioner vide Annexure P-7.

It has still further been submitted that a totally fabricated case has been planted upon the petitioner as neither the alleged trap proceedings were conducted against him nor any recovery of tainted money effected from his possession; in fact as per the prosecution itself, the tainted money had been recovered from co-accused Koki. Learned counsel for the petitioner has submitted that the petitioner had cooperated with the investigating agency when he was directed to join investigation earlier and nothing was required to be recovered from him. Hence, his custodial interrogation would not be required in the case in hand for which he deserved to be extended the concession of anticipatory bail.

3. Notice of motion.

4. On the asking of Court, Mr. Gagandeep Singh Wasu, Spl. PP for CBI accepts notice on behalf of the respondent.

Learned counsel for the CBI has vehemently opposed the prayer and submissions made by the counsel opposite for extending the concession of anticipatory bail to the petitioner. Learned counsel for the respondent has submitted that FIR No.119 dated 18.07.2023 under Sections 384, 386, 341 IPC and Section 25 of Arms Act had been lodged at Police Station Sector 31, Chandigarh against some

gangsters, who were involved in extortion and had been dealing with illegal weapons. During investigation of the aforesaid case, the petitioner, who is a police official demanded a bribe from the complainant in the present case in lieu of letting him go scot-free in FIR No.119 dated 18.07.2023 registered at Police Station Sector 31, Chandigarh.

Learned counsel for the CBI has vehemently asserted that since the petitioner is a uniformed officer, it is a matter of serious concern that he had been engaging in blatant extortion; sufficient evidence in the form of phone calls had been collected by the investigating agency, which substantiated the claim of bribe demands having been made by the petitioner from the complainant. It has been further submitted that no doubt, the petitioner was not present when the co-accused was apprehended with the tainted money by the trap team, however, his complicity with the co-accused was discernible from the evidence collected by the investigating agency so far. A prayer, therefore, has been made by the learned counsel for the CBI for dismissal of the instant petition as the custodial interrogation of the petitioner would be required to unearth the role of the accused as well as some other police officials in the crime in question. It has also been submitted that in case, the petitioner is granted the concession of anticipatory bail, that too at this stage, there was a strong likelihood that he could tamper with

material evidence and also tried to intimidate/influence some material witnesses in the case at hand.

4. I have heard learned counsel for the parties and perused the material placed on record.

5. On a pointed query put to the learned counsel for the petitioner as to how the instant petition, which was his second petition for anticipatory bail, is maintainable, he has submitted that the earlier petition had not been decided on merits and had just been disposed of by giving directions to the investigating agency to let him join the investigation after giving him five days advance notice. Hence, the instant petition could be termed to be virtually his first petition under Section 438 Cr.PC.

6. The case at hand was registered on the basis of a complaint filed by one Deepak, who alleged that illegal gratification in the sum of Rs.7 lacs had been demanded from him by the petitioner and co-accused Harinder Sekhon for excluding him as an accused in FIR No.119 dated 18.07.2023, which had been registered against one Manpreet Singh @ Mani @ Topi. Allegedly complainant Deepak received a phone call from an acquaintance Bablu, who told him that one of his friends Koki, co-accused is on good terms with the petitioner and Inspector Harinder Sekhon; co-accused Koki assured the complainant that he would help him out in FIR No.119 dated 18.07.2023 after talking with the petitioner and Inspector Harinder Sekhon. In the meantime, petitioner was continuously threatened with

adverse consequences including through whatsapp call made by Bablu that in case bribe of Rs.5 lakhs was not paid, he would have to suffer adverse consequences.

As per the learned counsel for the CBI, the petitioner is one of the main conspirators of the crime, there are audio recordings also to *prima facie* corroborate the allegations levelled against the petitioner and the co-accused.

7. In the facts and circumstances as enumerated hereinabove and the grave allegations levelled against the petitioner of having demanded bribe from the complainant in exchange of not implicating him in FIR No.119 dated 18.07.2023 coupled with the apprehension raised by the CBI counsel of the petitioner’s likelihood of tampering with evidence, this Court does not deem it fit to extend the concession of regular bail to the petitioner. Accordingly, the instant petition stands dismissed.

7. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

20.02.2024
sonia

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No