

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10295-2024 (O&M)
Date of order: 14.03.2024

Mahabir
... Petitioner(s)
Versus
State of Haryana
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Shubham Kaushik, Advocate for
Mr. Sandeep Singal, Advocate
for the petitioner(s).

Mr. Naveen K. Sheoran, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
3	18.1.2024	Anti Corruption Bureau, Gurugram, Haryana.	7 & 7A of the Prevention of Corruption Act, 1988 and Section 384 IPC.

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, seeking bail.
2. Counsel for the petitioner submits that this complaint is a counterblast to the raid conducted by the petitioner on the allegations of electricity theft. Moreover, the ingredients of Sections 7 and 7A of the P.C. Act are missing, as the complainant has failed to give any proof of demand and acceptance of illegal gratification. No recovery of Rs.2,000/- has been effected from the petitioner.
3. State’s counsel has opposed the bail on the grounds that investigation is pending and the petitioner may tamper with the evidence and pressurize the witnesses.
4. Vide order dated 7.3.2024, 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 and also to comply with other conditions mentioned in the said order.

5. Today, counsel for the petitioner, on instructions, submits that they have complied with the conditions contained in 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.

6. I have heard counsel for the parties and gone through the record.

7. Prosecution's case is being extracted from reply dated 6.3.2024 filed by the State by way of affidavit of the concerned DySP, which reads as under:-

- "2. That Brief facts of the case are that a complainant Sageer Ahmed resident of Village Chandeni, District Nuh, moved a complaint before Inspector Anti Corruption Bureau, Gurugram alleging therein that he had an electric connection having meter Number OG-42GD179021: On 08.01.2023 Petitioner Mahabir, Junior Engineer, along with his driver Rafik (Co accused) came to the premises of complainant for checking theft of electricity, however no such theft was found but in order to pressurize the complainant, Petitioner Mahabir, Junior Engineer had video graphed the whole proceeding of checking/raid with his mobile phone and when complainant had objected then petitioner Mahabir had asked complainant that if he wanted to get rid of further complication then complainant had to come at the room of petitioner and he had also signalled complainant Sageer Ahmed to give Rs.4,000/- for settlement.
3. Thereafter, on 10.01.2024 petitioner Mahabeer J.E. made a call on the mobile no. 9671562878 of complainant by his mobile 8059888373 and asked him to visit his room Thereafter complainant had arranged a recorder to record the incident and visited to the residence of the petitioner on 12.01.2024 and met with co accused driver Rafik who informed complainant that Petitioner J.E. Mahabir is not available accordingly complainant came back from there and as soon as he reached his house, complainant received a call from co- accused Rafik from his mobile no. 8708873567 stating that Petitioner J.E. Mahabir is available and would meet him nearby Government School at village Chandeni and asked complainant to come there.
4. That accordingly complainant had reached there and had met with Petitioner Mahabir and co accused Rafik in their official Bolero vehicle and they asked him to sit in the vehicle and before entering in the vehicle complainant has switched on recorder. Petitioner Mahabir had asked complainant to switch off his mobile phone and then complainant unwillingly given Rs.2000/- to Petitioner Mahabir JE. Thereafter petitioner told him that your work of Rs.4000/- has been done for Rs.2000/-only. Complainant further stated that he will hand over the recording in a pen drive. Upon the basis of the said complaint the present case bearing FIR No. 03 dated 18.01.2024, under Section 7, 7A, of prevention of corruption act and section 384 of Indian Penal Code was registered at Police Station Anti Corruption Bureau, Gurugram. It is also intimated that during the course of investigation 13(1)b r/w 13(2) sections were also added in case FIR No. 03 dated 18.01.2024.

5. That, thereafter investigation of the present case was put on motion and during the investigation the recording of the conversation between complaint and petitioner were taken in possession along with certificate under section 65B of Indian Evidence Act and Hindi translation of the conversation was also prepared. (Copy of the same is annexed as **Annexure R-1).**”

8. The petitioner was granted interim protection on 7.3.2024 and during the interregnum, there is no allegation that he had hampered the investigation, or despite being called to join the investigation, he did not appear before the investigator and furthermore, the petitioner along with his spouse has voluntarily declared their assets with an undertaking that for declaring assets, they would not claim any incrimination or violation of their rights under Articles 20/21 of the Constitution of India, Indian Evidence Act or any other law in force. Considering the meagre amount involved and pre-trial custody of the petitioner, which is about 1½ months and cannot be said to be less, his further pre-trial custody may not be justified.

9. Given above, the petition is allowed and interim order dated 7.3.2024, is made absolute. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

March 14, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No