

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10213-2024
Reserved on: 12.03.2024
Pronounced on: 21.03.2024

Paramvir Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Japjit Singh Johal, Advocate
for the petitioner.

Ms. Swati Batra, DAG, Punjab (Through video conferencing)
Assisted by Inspector Vijay Pal Singh.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
02	06.02.2024	Vigilance Bureau Range Jalandhar, District Jalandhar	7 of Prevention of Corruption (Amendment) Act 2018

1. The petitioner, who is a Patwari, apprehending arrest in the FIR captioned above on the allegations of accepting a bribe of Rs. 5,200/- from the complainant, the act of which was video recorded by her, has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 23 of the bail petition, the accused declares that he has no criminal antecedents.
3. Vide order dated 27.02.2024, petitioner was granted interim bail which is continuing till date.
4. Prosecution’s case is being taken from reply dated 07.03.2024, which reads as follows: -

“1. That it is submitted that complainant-Manpreet Kaur wife of Satnam Singh resident of village Panwa Tehsil Dasuya at present resident of village Nainowal Jattan Tehsil and District Hoshiarpur moved complaint bearing No.152651 to Anti-Corruption Line and the inquiry of the said compliant was marked to Sub-Inspector Kuldeep Singh, Vigilance Bureau Unit, Hoshiarpur. During the inquiry, statement of complainant was also recorded, in which she stated that her mother-in-law and father-in-law have already died.

Her husband Satnam Singh is a drug addict, due to which she got transferred the land in her name so that he could not sell the land. She further stated that she prepared a file for demarcation of land and went to the office of Tehsildar Dasuya Hoshiarpur and the Tehsildar marked her file to Paramvir Singh Patwari. When she met Paramvir Singh Patwari he demanded bribe of Rs. 5200/- for demarcation of land. She handed over the file alongwith Rs. 5200/- and while paying the bribe she had also made a video of it from her mobile phone. Even after taking bribe from her, Paramvir Singh did not demarcate her land. She made a phone calls at different times to Paramvir Singh Patwari for demarcation of her land but he stopped picking up her phone.

During the inquiry, it was found that the petitioner being responsible employee, misused the authority with an ulterior motive and received application of demarcation and Rs.5200/- as bribe from the complainant in lieu of demarcation of her land. Therefore, SI Kuldeep Singh Vigilance Bureau Unit, Hoshiarpur recommended to take legal action against the petitioner after obtaining legal opinion from legal branch. Afterward legal opinion was obtained from Vishal Anand Deputy DA Vigilance Bureau Jalandhar and he gave opinion that prima facie offence U/s 7 of Prevention of Corruption Act, 1988 as amended by the Amendment Act 2018. Therefore, FIR No. 02 dated 06.02.2024 U/s 7 of Prevention of Corruption Act, 1988 as amended by P.C (Amendment) Act 2018 was registered at Police Station: Vigilance Bureau Range, Jalandhar against the petitioner.

2. That it is submitted that during the investigation a notice U/S 41 (A) CrPC was served to the absconding petitioner through his mother in the presence of sarpanch of the village of petitioner. Also the police of Vigilance Bureau Unit, Hoshiarpur obtained concerned record and recorded the statements of the witnesses."

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

6. Petitioner's counsel seeks bail firstly on the ground that the allegations are false for the reason that no person would demand a bribe of Rs.5,200/- and usually when the bribe is demanded, it would be at least in the multiple of thousands and hundreds, but indeed the figure of Rs.5,200/- is odd.

7. The state counsel submits that the amount is not unusual, but although Rs.5,200/- was taken, Patwari counted 200 rupees as expenditure and Rs.5,000/- as a bribe.

8. An analysis of these arguments rightly points out that given the nature of the allegations, an amount of Rs.5,200/- is not an unusual figure but can be divided into two parts, i.e., Rs.200 as lump-sum expenditure for demarcation and Rs.5,000/- for a bribe.

Thus, the petitioner is not entitled to bail on this ground.

9. The petitioner's next point for bail is that there is a delay of three months in filing the FIR, and there is no plausible reason for the delay.

10. To this, counsel for the State opposes such a plea on the ground that there is no delay at all, and as and when they got the report, they started an investigation, and the petitioner had tried to influence the complainant and coerced her to take a contrary stand, however later on, a statement under Section 160 the complainant and complaint made CrPC was filed.

11. An analysis of the arguments would lead to the outcome that the delay, in this case, is not because of an attempt to falsely implicate the complainant but because of other factors like apprehension in the complainant's mind and subsequent delay in the inquiry. Thus, the petitioner is not entitled to bail on this ground.

12. Petitioner's next point is that as per the complainant's version, she had carried the file for demarcation of land to the office of Tehsildar, Dasuya, where the Tehsildar marked the file to Paramvir Singh (present petitioner) and, after that, handed over the file to the complainant. Petitioner's counsel submits that to the contrary, it came in the inquiry that the demarcating the boundary of the land of the complainant was never marked to the petitioner by the Tehsildar, instead on the day of occurrence, i.e., 17.10.2023, the complainant met the Tehsildar's Reader who had initialed the complainant's application for demarcation of the land and advised the complainant to deposit the requisite online fee firstly. Petitioner's counsel submits that thus there is a contradiction in these two above statements, which creates doubt about the complainant's credibility.

13. State counsel opposes the bail by stating that simply because the Tehsildar's Reader had initialed the file, it does not mean that it has been marked to the petitioner, and it is common knowledge that demarcation is allowed by the Tehsildar and no one else. She further submits that in addition to the oral complaint made by the complainant, she had handed over an amount of Rs.5,200/- to the petitioner, who accepted the same and kept it in the file. Thus, a demand was completed by the petitioner's acceptance of the bribe amount. State counsel has also handed over a copy of the video to this Court so that the Court can watch it, and the person towards whom the video is pointed is Patwari (present petitioner), who can be seen accepting the bribe by extending his arms.

14. I have watched the video on a digital device, and it was a short video of less than one minute. One can quickly notice that a woman is handing over some money, which, on top of that, is a denomination of 200 rupees notes and then 500 rupees notes. It is

also seen in the video that the petitioner stretched his hand, took money from the lady (complainant), and kept the money in the file, and there is nothing to disbelieve the the complainant, according to whom, this was the bribe money.

15. An analysis of the bail petition does not mention any reason for the acceptance of Rs.5,200/- by Patwari (present petitioner). Counsel for the petitioner could not show that the demarcation fee was Rs.5,200/-. Instead, the state counsel submitted that the fee for demarcation is nominal and not even Rs.200. An analysis of the above points out that the Patwari accepted a demand, for which there is a video recording. After watching the video in the continuous frame, on the face of it, it is not a fake video, and it can neither be said to be fake nor to have been edited. However, this observation is only for the purposes of bail, and the video's authenticity is subject to legal proof.

16. Once there is video recording, which is not only replaying the occurrence and the observer can observe the aspects of the video by pausing it and replaying it or playing it in slow motion, it would be perceived by the senses certainly in a far better manner than what would be generally perceived by the senses, which makes digital recording even on higher footing than the oral versions.

17. Given the clear-cut video in which the petitioner extends his arms and takes money from the complainant's hand, this evidence is sufficient to deny anticipatory bail to the petitioner.

18. The petitioner's next argument is that the petitioner has been falsely implicated because the transfer deed dated 27.06.2023 was made by the complainant's husband, Satnam Singh, in her favor, and the petitioner duly entered the mutation. It was also the reason that Satnam Singh made a sale deed dated 18.07.2023 in favor of one Pargat Singh, and the petitioner refused to enter the mutation as the land stood transferred in the name of the complainant and Satnam Singh was not the owner at that point of time. It is also submitted that vide transfer deed dated 21.08.2023, the above land was transferred by the complainant back to her husband Satnam, and the petitioner refused to enter the mutation of the above sale deed dated 18.07.2023 after the execution of the sale deed dated 21.08.2023 in favor of purchaser Pargat Singh, as Satnam Singh did not become owner on 21.08.2023 and sale deed dated 18.07.2023 was fraudulent. Due to the above reason, the petitioner has been implicated by the complainant to seek revenge.

19. State counsel opposes the above contention and submits that all these are afterthoughts, and the investigation did not find any specific truth in them. The state further submits that this is an open-and-shut case where the petitioner has accepted the

money. Given the digital evidence, it is for the petitioner to explain why he had taken money, which is missing in this case.

20. An outcome of the aforesaid discussion clearly points out that although the petitioner had tried to make out a case by sale deeds, etc., on the other hand, there is a simple denial of the receipt of money, which is falsified by the digital evidence, where he is seen as accepting the money for which the petitioner did not offer any explanation.

21. Counsel further submits that the petitioner did not rely upon the complainant's affidavit in his bail petition before the Id. Additional Sessions Judge and the petitioner did not procure or possess the affidavit. It is also submitted that the affidavit has been executed before the Executive Magistrate, the complainant has purchased the stamp, and to defeat the bail of the petitioner, the complainant prepared the affidavit and disclosed after that in a supplementary statement before the police that the petitioner pressurized him for affidavit/compromise.

22. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

23. In *Sumitha Pradeep v Arun Kumar CK*, 2022 SCC OnLine SC 1529, Supreme Court holds,

[16]. ... We have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

24. In *State of Gujarat v. Mohanlal Jitmalji Porwal* (1987) 2 SCC 364, Supreme Court holds,

[5].The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with

cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest....."

25. In State rep. by CBI v. Anil Sharma, (1997) 7 SCC 187, Supreme Court holds,

[6]. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.

26. InJai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379, Supreme Court holds,

[19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. [See D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434, State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213 and Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305].

27. In Y.S. Jagan Mohan Reddy v. CBI (2013) 7 SCC 439, Supreme Court holds,

[34]. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

[35]. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses

being tampered with, the larger interests of the public/State and other similar considerations.

28. In P. Chidambaram v. Directorate of Enforcement, 2019 9 SCC 24, Supreme Court holds,

[70]. We are conscious of the fact that the legislative intent behind the introduction of Section 438 Cr.P.C., 1973 is to safeguard the individual's personal liberty and to protect him from the possibility of being humiliated and from being subjected to unnecessary police custody. However, the court must also keep in view that a criminal offence is not just an offence against an individual, rather the larger societal interest is at stake. Therefore, a delicate balance is required to be established between the two rights - safeguarding the personal liberty of an individual and the societal interest. It cannot be said that refusal to grant anticipatory bail would amount to denial of the rights conferred upon the appellant under Article 21 of the Constitution of India.

29. In Central Bureau of Investigation v. Santosh Karnani, Cr.A 1148 of 2023, dated 17-04- 2023, Supreme Court, in an FIR registered under sections under Sections 7, 13(1) and 13(2) of the Prevention of Corruption Act, 1988, holds,

[24]. The time-tested principles are that no straitjacket formula can be applied for grant or refusal of anticipatory bail. The judicial discretion of the Court shall be guided by various relevant factors and largely it will depend upon the facts and circumstances of each case. The Court must draw a delicate balance between liberty of an individual as guaranteed under Article 21 of the Constitution and the need for a fair and free investigation, which must be taken to its logical conclusion. Arrest has devastating and irreversible social stigma, humiliation, insult, mental pain and other fearful consequences. Regardless thereto, when the Court, on consideration of material information gathered by the Investigating Agency, is prima facie satisfied that there is something more than a mere needle of suspicion against the accused, it cannot jeopardise the investigation, more so when the allegations are grave in nature.

[31]. The nature and gravity of the alleged offence should have been kept in mind by the High Court. Corruption poses a serious threat to our society and must be dealt with iron hands. It not only leads to abysmal loss to the public exchequer but also tramples good governance. The common man stands deprived of the benefits percolating under social welfare schemes and is the worst hit. It is aptly said, "Corruption is a tree whose branches are of an unmeasurable length; they spread everywhere; and the dew that drops from thence, Hath infected some chairs and stools of authority." Hence, the need to be extra conscious.

30. In the background of the allegations and the light of the judicial precedents mentioned above in the facts and circumstances peculiar to this case, the petitioner fails to make a case for anticipatory bail.

31. Any observation made hereinabove is neither an expression of opinion on the case's merits, neither the court taking up regular bail nor the trial Court shall advert to these comments.

Petition dismissed. Interim orders stand vacated. All pending applications, if any, also stand disposed.

(ANOOP CHITKARA)
JUDGE

21.03.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: YES.