

CRM-M-11989-2024

2024:PHHC:049913

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201

CRM-M-11989-2024
Decided on: 15.04.2024

Jaideep

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Aman Pal, Advocate for the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
04	29.01.2024	Anti Corruption Bureau, Rohtak	7 & 13 of Prevention of Corruption Act 1988

1. The petitioner apprehending arrest in the FIR captioned above, has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. Vide order dated 07.03.2024, State was asked to file reply and this Court had granted interim bail to the petitioner and the said order is continuing till date. On 01.04.2024, petitioner’s counsel sought extension of interim bail and undertook to give voice samples as and when the investigator will ask and also stated that he would voluntarily declare his assets along with his spouse.
3. Today, when the matter was taken up, counsel for the petitioner submits that he has complied with the assets declaration undertaking and also lead to the recovery of Rs.8,000/- in terms of just exceptions as mentioned in the order dated 01.04.2024. Petitioner’s counsel further undertook that he would appear for giving his samples as and when called upon to do so and would not delay such exercise. Counsel further submits that custodial interrogation and pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. Counsel for the State opposes the bail.

5. Prosecution's case is being taken from the reply dated 15.03.2024, which reads as follows:-

"That the case of the prosecution and the investigation carried out by Anti Corruption Bureau (A.C.B. in short) in the nutshell is as under:-

i. That the complainant Madan Kumar had appeared on 29/1 / 2024 at Anti Corruption Bureau, Sub Centre, Sonipat and presented a written complaint with the allegations that he is working as water carrier in Haryana Police at Sonapat. Shivani (who is daughter of complainant's relative Bijender) has performed inter-caste marriage on 2/11 / 2020 with Ashwani. As per the Haryana Government Scheme, if a girl whose caste is mentioned in the schedule of Constitution performs marriage with upper caste boy, then she is given Rs.2.5 Lac. Shivani has also moved an application in this regard. Both the couple (i.e. Shivani and her husband Ashwani) are doing job in Kerla. The petitioner being Tehsil Welfare Officer called the couple at Sonapat many times but did not clear their file. The couple asked the complainant that they are tired of coming here so the complainant should help them and get their work done as the complainant resides in Sonapat. The complainant met the petitioner in this regard many times, but work was not transacted rather the petitioner replied that this work cannot be done without giving bribe. When complainant asked him as to what is he to do. The petitioner replied that the complainant should meet Pardeep (petitioner's friend who is working on a post of driver in same department i.e. Distt. Welfare Office). When complainant met the co-accused Pardeep, he openly stated that without gratification, the work cannot be done and he would tell the amount after having talks with the petitioner. The co-accused Pardeep told that he had a talks with the petitioner mobile phone No.9068139902 and the complainant has to pay Rs.40,000/- as illegal gratification. When the complainant confronted Pardeep that the money is quite huge, he replied that despite paying this amount, complainant would still get Rs.210000/-. Due to pressure exerted by the co-accused Pardeep and after consulting his relatives, the complainant agreed for the illegal demand. Further the complainant paid Rs.10,000/- under duress to co-accused Pardeep to get their work done, but not completely. The amount of Rs.1,25,000/- on 16/12/2023 was credited in the account of Shivani while of Rs.1,25,000/- FD has been prepared in the name of Shivani, but in lieu of handing over the FD, the accused is demanding gratification of Rs.30,000/- and calling him for remaining payment, but he does not want to pay gratification. Whatever conversation has been taken place between him and co-accused Pardeep, he will provide its recording in a pen-drive.

ii. That the recording was heard by Inspector Mahender Singh, In-charge, Anti Corruption Bureau, Sub Centre, Sonipat wherein demand of bribe was found to be raised by the petitioner to complete their above said work and the Senior Officers were informed about the complaint and recordings. As per the allegations levelled in complaint, a formal FIR No.4 Dt.29/01/2024 under Section 7 of Prevention of Corruption Act was registered at P.S. Anti Corruption Bureau, Rohtak Range, Rohtak. FIR is already annexed by the petitioner with the petition as Annexure P-1 for the kind perusal of this Hon'ble Court.

iii. That subsequently, a joint team of officials of Anti Corruption Bureau as well Gazetted Officer Smt. Sanjeet Kaur Joint Director and shadow

witness Sh. Naveen Joint Director from the District Industries Centre Sonipat was prepared to nab the accused red-handed with the amount of bribe. During the raid proceeding as per law on 29/01/2024, the co-accused Pardeep was apprehended red-handed with an amount of bribe of Rs.30,000/- and accordingly his hands were got washed and recovered bribe amount of Rs.30,000/- after verification was converted into a parcel duly signed by co-accused Pardeep and the witnesses of the joint raid. On finding cogent evidence to arrest, the co-accused Pardeep was arrested at the spot on 29/01/2024 and on interrogation he has voluntarily suffered his disclosure statement admitting therein the manner in the crime in conspiracy with the petitioner. The permission of voice-sampling of co-accused Pardeep has also been obtained from the Ld. Court and appointment for his voice- sampling has also been commuted by the CFSL Rohtak for the date 06/04/2025. Copy of Scheme for Encouragement of inter-caste marriage vide memo No.1109 Dt.30/03/2024 in concern of Shivani as well as the recording of the petitioner with co-accused Pardeep are already annexed by the petitioner with the petition as Annexure P-2 and P-7 for the kind perusal of this Hon'ble Court.

iv. That the role of the petitioner in the crime is that the accused Pardeep Kumar was recruited as a driver on contract basis in Distt. Welfare Officer Office Sonipat in the year 2018 and in year 2022 his name has been registered as a driver in District Welfare Officer Office Sonipat through Kaushal scheme. The petitioner was appointed in his office as Tehsil Welfare Officer Sonipat with whom he had a very good friendship. A few days ago the complainant met to the accused Pardeep Kumar and said that his relative Shivani D/o Bijender caste Harijan R/o village Mohana P.S. Mohana District Sonipat has married in the year 2020 in an inter-caste marriage with Ashvani Swarnim caste and according to the scheme of Haryana Government, Rs.250000 be given in the form of Inter-caste Marriage Shagun Scheme for which they have applied but we have not received the amount yet. In this regard, complainant met the petitioner Jaideep Tehsil Welfare Officer Sonipat several times but he said that this work cannot be done without money and asked him to meet the accused Pardeep Kumar. The accused Pardeep apprised the complainant that this work will not be done without money and further said that he will talk to Jaideep about money and then tell whether Jaideep will work without taking money. Then the accused Pardeep talked to the petitioner about it and the petitioner said that he will get Shivani's file cleared but this work be done at the cost of Rs.40,000/- and further said to get arrange Rs.40,000/- from the complainant Madan, he will give 20% of it i.e. Rs.8,000/- to accused Pardeep also. Then accused Pardeep told the complainant that the petitioner has asked for a bribe of Rs.40,000/- for his work. The complainant said that the money is huge but he will talk to his relatives and let know back to the accused Pardeep. After a few days, the complainant said that his relatives have consented then the accused Pardeep told the petitioner to get the work done for complainant's relative Shivani and accordingly Rs.1,25,000/- were deposited in Shivani's bank account and also got an FD of Rs.1,25,000/- in the name of Shivani prepared. Earlier the complainant had given to the accused Pardeep an amount of Rs.10,000/- as bribe. The accused Pardeep gave the entire Rs.10,000/- to the petitioner out of which the petitioner gave him 20% of his share i.e. Rs.2,000/-. On 29/01/2024, the accused Pardeep was caught by the A.C.B. while taking bribe amount of Rs.30000/- from complainant. Out of this money, Rs.24,000/- was to be given to the petitioner and the

accused Pardeep had to keep 20% of his share i.e. Rs.6000/-. Regarding giving this bribe amount to Jaideep, when accused Pardeep was caught red handed along with the bribe amount, he called the petitioner from his phone to inform him about his share of bribe amount and the petitioner replied that he has gone to Bahalgarh. When the accused Pardeep told the petitioner about the bribe taken in exchange for doing the work of the complainant's relative Shivani, the petitioner said to the accused Pardeep that it is okay, he will take it after coming. The petitioner had also shown the accused Pardeep a photocopy of Shivani's FD Rs.125000/- from his jacket pocket and said that first go and get the outstanding Rs.30000/- from the complainant, after that he will give its copy to him to give it to the complainant. The accused Pardeep has been caught red-handed with bribe. He had given entire amount of Rs.10,000/- that he had taken a few days ago to petitioner and he had given him Rs.2000/-. The disclosure statement of the accused Pardeep is annexed with the Status Report as Annexure R-1 for the kind perusal of this Hon'ble Court.

v. That Bijender Singh S/o Baljeet Singh, whose name came in a recording presented by complainant, was also joined in investigation on 22/02/2024 and voluntarily stated that he was recruited as a driver under Kaushal employment in November 2022. He recently appointed in ADC office. The accused Pardeep Driver, who is a driver in the Social Welfare Department Sonipat also works under Kaushal that's why he came in contact with the accused Pradeep. The accused Pradeep used to come to him to sit in free time. He and the accused Pradeep Driver used to go to Tea-Stall on the road for a tea 1-2 times in a week. Once the accused Pardeep driver had taken Rs.10,000/- from the complainant there. He does not know for what purpose this money was taken. The accused Pardeep had given said payment to the petitioner working as Tehsil Welfare Officer Sonipat out of whom the petitioner had returned Rs.2000/- to the accused Pradeep and whom kept Rs.8000/- for himself. Later on, accused Pardeep stated that this money was a bribe for doing the work of complainant's relative Shivani. The statement of Bijender is annexed with Status Report as Annexure R- 2 for the kind perusal of this Hon'ble Court.

vi. That the petitioner has obtained the interim relief of pre-arrest bail from this Hon'ble Court vide order dated 07/03/2024 in the instant petition and joined the investigation on 11/03/2024 but he has not co-operated with the A.C.B. by telling lie on multiple questionings and also by not got recovering the bribe amount of Rs.8,000/- of his share deliberately with a malafide intention to delay the conclusion of the investigation against him which reveals that the petitioner has no respect in his eyes for the orders passed by this Hon'ble Court and he has also been frequently misusing the interim relief of the pre-arrest obtained by him by this Hon'ble Court vide order dated 07/03/2024.

vii. That the custodial interrogation of the petitioner is essential to ascertain the truth and for recovery of bribe amount of Rs.8,000/- of his share and copy of FD of Rs.1,25,000/- of Shivani and further for his voice-samples to get it compare with the recordings, from the F.S.L. and the A.C.B. assures to conclude investigation by considering the grievances of the petitioner also in an impartial and fair manner on the basis of the material evidence which will be brought on the file during the conclusion of investigation.

3. That the petitioner wants to mislead this Hon'ble Court on the basis of the provision of Section 17A of the Prevention of Corruption Act 1988 as no approval is required in the case of petitioner from any of the competent authority for any enquiry or inquiry or investigation purpose. As stated above, the accused Pardeep Kumar was arrested red-handed at the spot and he has disclosed the name of the petitioner about his involvement in crime and as per the relevant part of the provision of Section 17 A of the Act- **“No such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any undue advantage for himself or for any other person.”**

6. I have heard counsel for the parties and gone through the petition.
7. Given above, considering the amount involved and the fact that petitioner has cooperated in the investigation and voluntarily declared the assets and also keeping in view the undertaking of giving voice samples, petitioner makes out a case for anticipatory bail and it is neither a case of custodial investigation nor pre-trial incarceration.
8. Given above, petition is allowed and interim order dated 07.03.2024 is made absolute. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

15.04.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.