

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13686-2024 (O&M)
Date of order: 02.04.2024

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

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
Present:- Mr. Parminder Singh, Advocate
for the petitioner(s).
Mr. Rajat Gautam, Addl.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
7	01.02.2024	Anti Corruption Bureau, Ambala	7, 8, 12, 13 of the Prevention of Corruption Act, 1988 and Sections 409, 420 and 120-B IPC

1. Apprehending arrest in the FIR captioned above, the petitioner had come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 19 of the bail petition, the accused declares that they have no criminal antecedents.
3. Vide order dated 18.03.2024, this Court had granted interim protection to the petitioner which is continuing till date.
4. Facts of the case are extracted from reply dated 29.3.2024 filed by the State by way of affidavit of concerned DySP, which read as under:-

“That FIR No. 7 dated 01.02.2024 under Sections 409, 420, 120-B IPC and Sections 7, 8, 12, 13 of Prevention of Corruption Act was lodged in Police Station Anti Corruption Bureau, Ambala against Sanjay Kumar Hooda, G.M., Central Cooperative Bank, Kaithal and Stalian Jeet. After registration of FIR the complainant Inspector Parkash Chand, belt no. 13/Rewari Police Station, Anti Corruption Bureau Gurugram, presented (i) Detail Report of Sanjay Kumar Hooda, the then G.M. Co-op Bank Kaithal (ii) Posting Details on the post of G.M.

Co-op Bank Kaithal (iii) CAF ID of Mob. No. 8529422580 (iv) WhatsApp chats of Mob. No. 7710788880 of Stalian Jeet (v) Statement of Central Co-operative Bank Kaithal Account No. 000234001100368/INR ICDP Kaithal Details (vi) Statement of Bank of Baroda Account No. 78760100019888 IFSC-BARBOVJROHT details in the name of Anil Kumar (vii) Statement of Union Bank Chandigarh Account No. 799601010036900, IFSC-UBIN0549967 Fresh Khata Company in which Stalian Jeet is Director (viii) Observation Memo of DITAC Report and WhatsApp chats between Mob. No. 7710788880 of Stalian Jeet and mobile no. 8529422580 of Sanjay Kumar Hooda details which were taken into police possession vide separate recovery memo. The statements of witnesses under section 161 Cr.P.C. were also recorded. On 02.02.2024, police party served notice upon Sanjay Hooda while he was present at Balhara Family Restaurant, Bhainswan, District Sonipat alongwith accused-petitioner and after obtaining consent of Sanjay Kumar Hooda he was joined in investigation and thereafter, finding sufficient proof regarding his involvement in the present case he was formally arrested. During his person search a mobile phone make Samsung having sim No.8529422850 (JIO) and second sim of No.94163-58215 (BSNL), which was in his possession was taken into police possession vide separate recovery memo and converted into sealed parcel. The statements of witnesses under section 161 Cr.P.C. were also recorded and thereafter, he lodged in Police Station-Civil Line, Kaithal. It may be pertinent to mention here that the information of arrest of the co-accused Sanjay Kumar Hooda was given to the accused- petitioner on the spot.

3. That on 02.02.2024, during interrogation co-accused Sanjay, suffered disclosure statement in presence of witnesses but he refused to sign the same. On 04.02.2024 co-accused Sanjay suffered second disclosure statement in presence of witnesses but he again refused to sign the same. The co-accused Sanjay demarcated the place where he disposed of his mobile phone. The site plan was prepared on the spot and statements of witnesses under section 161 Cr.P.C. were also recorded. Since the accused disposed of his mobile phone therefore, Section 201 IPC was added to the FIR. On 15.02.2024 the record regarding demand purchase of articles (computer, printer, chairs etc.) by ICDP, Kaithal was obtained from the Central Co-operative Bank, Kaithal was taken into police possession vide separate recovery memo. The statements of the witnesses were also recorded under section 161 Cr.P.C. On the same date the Call Detail Record, of the co-accused Sanjay was received through e-mail which was taken into police possession vide separate recovery memo from ASI Nirbhay Cyber Incharge, office of Anti Corruption Bureau, Ambala. The certificates, under section 65-B Evidence Act, of the ASI Nirbhay Cyber Incharge were also taken into possession. The statements of the witnesses were also recorded under section 161 Cr.P.C. On the same date the call detail record of the co-accused Stalian Jeet and co-accused Sanjay were got analysed from the cyber expert and analyse report of the same was taken into police possession vide separate recovery memo. The statements of witnesses were recorded under section 161 Cr.P.C. Thereafter, physical verification of the articles was got conducted through the team in which IT Expert NIC, Kaithal was member. The physical verification was conducted in the presence of Duty Magistrate on 16.02.2024, 17.02.2024, 19.02.2024 and 20.02.2024 and the branch wise physical verification report was prepared. The statements of the witnesses were also recorded under section 161 Cr.P.C. On 19.02.2024 the Call Detail Record, of the co-accused Stalian Jeet was received through e-mail which was taken into police possession vide separate recovery memo from ASI Nirbhay Cyber Incharge, office of Anti Corruption Bureau, Ambala. The certificates, under section 65-B Evidence Act, of the ASI Nirbhay Cyber Incharge were also taken into possession. The statements of witnesses were recorded under section 161

Cr.P.C. On 27.02.2024 Sh. Pardeep Kumar, Branch Manager Central Co-operative Bank, Main Bazar Kaithal was joined in the investigation and his statement under section 161 Cr.P.C. was recorded. On 28.02.2024 Sh. Amarjeet Singh, and Sh. Talvinder Singh Director Central Co-operative Bank, Kaithal were joined in the investigation and their statement under section 161 Cr.P.C. was recorded. 29.02.2024 the mobile phone of co-accused Sanjay was send to CFSL, Panchkula for its report. The statements of witness were recorded under section 161 Cr.P.C. On 01.03.2024 the record regarding posting and bank account of Anil Kumar was obtained from the Central Co-operative Bank, Sonipat which was taken into police possession vide separate recovery memo. The record regarding account of Anil Kumar was obtained from the Bank of Baroda, Rohtak which was taken into police possession vide separate recovery memo. The statements of the witnesses were also recorded under section 161 Cr.P.C. On 18.03.2024 the record regarding saving account no. 15561050008779 of accused- petitioner was obtained from the HDFC Bank, Sector 40, Chandigarh bearing IFSC no. HDFC0001556 and taken into police possession vide separate recovery memo. The statements of the witnesses were also recorded under section 161 Cr.P.C. On 21.03.2024 the record regarding demand of articles (computer, printer, chairs etc.) send by branches to Central Co-operative Bank, Kaithal was obtained from the office of G.M. Central Co- operative Bank, Kaithal which was taken into police possession vide separate recovery memo. The statements of the witnesses were also recorded under section 161 Cr.P.C. On the bank account statement of company of Stalian Jeet namely Fresh Khata bearing No.499601010036900, Layby India Ltd. bearing No.499601010036894 and his personal account No. 499601010036902 was obtained from Union Bank of India, Sector 35-C, Chandigarh which was taken into police possession vide separate recovery memo. The statements of the witnesses were also under section 161 Cr.P.C. On the same date ie. notice to join investigation as per order dated 18.03.2024 passed by this Hon'ble High Court was send to the Police Sadar, Rahtak for serving it to the accused-petitioner.

4. That the petitioner-accused on the directions of this Hon'ble Court issued vide order dated 18.03.2024 has joined the investigation on 26.03.2024 but did not co-operate in the Investigation. The matter is still under investigation. A deeper probe is required into the matter for obtaining true full facts and unearthing the magnitude of the corruption and to find out whether there was involvement of any other person/officer in the present case or whether there was any conspiracy or whether the accused has willfully withheld the information in his exclusive knowledge, regarding involvement of any other persons, for which custodial interrogation of accused-petitioner is required. Therefore, the accused-petitioner is not entitled to the concession of Anticipatory Bail from this Hon'ble Court.

5. That the mobile phone of accused-petitioner is to be recovered and he is to be interrogated regarding his bank accounts. The details of the bank accounts which have been received so far have revealed some suspicious transactions and the details of these transactions are to be obtained by interrogating the petitioner- accused. The role of the petitioner-accused is that he had received the bribe money in his account in conspiracy with co-accused Sanjay Kumar Hooda and Stalian Jeet alias Gulab. If granted anticipatory bail the petitioner-accused is likely to tamper and the evidence. The petitioner-accused and co-accused Sanjay belongs to same village and are close friends, therefore, co-accused Sanjay received the bribe money in the account of the petitioner-accused and the WhatsApp chats between Sanjay Kumar Hooda and Stalian Jeet alias Gulab clearly show that accused-petitioner is also involved in the offence. Since, the accused-petitioner is required for custodial interrogation to find out

regarding any other transactions and also regarding his bank details, therefore, he may not be granted anticipatory bail. In case the petitioner-accused if granted bail, he is likely to destroy evidence vital to the case.”

Reasoning:

5. The petitioner was granted interim protection on 18.3.2024 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. Moreover, as per the reply filed by the State, the role attributed to the petitioner in the present FIR is that he received the bribe money in his account in conspiracy with co-accused and the matter is under investigation.
6. Given the penal provisions coupled with the *prima facie* analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for pre-trial incarceration at this stage.
7. Given above, the present petition is allowed and interim order dated 18.3.2024 is made absolute. All pending applications, if any, stand disposed of.
8. However, it is clarified that the petitioner shall cooperate with the investigating agency.

(ANOOP CHITKARA)
JUDGE

April 02, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No