IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-15088-2024
Reserved on: 04.04.2024
Pronounced on: 26.04.2024

Ravinder ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Narender Singh, Advocate for the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
554	25.09.2020	Camp, District Palwal	420, 467, 468, 471, 120B, 201 IPC, Sections 8, 13(1)D of Prevention of Corruption Act and Section 66C & D of Information & Technology Act

1. The petitioner apprehending arrest in the FIR captioned above, has come up before this Court under Section 438 CrPC seeking anticipatory bail.

2. In paragraph 16 of the bail petition, the accused declares that he has no criminal antecedents.

3. Facts of the case are being taken from reply dated 29.03.2024, which reads as follows:-

> *"2. That the brief facts of the case are that FIR was registered upon the complaint of Devender Kumar, HPS, C.M. Flying Squad Palwal who submitted a written complaint at the Police Station Camp Palwal on 25.9.2020, as the police cameto know from the source report that the commercial driving licenses were being renewed in Regional Transport Authority (RTO) Office Palwal by the agents and computer operators in collusion with the license holders and the officials of the RTO Office by indulging in a scam. Pursuant to the said information, inquiry was conducted and during the course of inquiry on 24.09.2020 the attested copy of driving licenses of Yusuf son of Nasru R/o Udaka, Rafik son of Kamru R/o Village Sehsola and Jameel Son of Deen Mohd. R/o Udaka from RTA Palwal and obtained the renewal file dated*

16.09.2020 and inquired into the matter. Thereafter on the same day inquiry was conducted at RTA Office Gurugram, who stated that the said licenses were not renewed their authority but licenses are having seal of RTA Gurugram and initial signatures and date of birth is also different from the record. By the secret investigation it was found that this work is going on in RTA office Palwal in collusion with the license holder, brokers, computers operators and employee and authorities. Other driving 5 licenses might also been issued illegally by taking bribe. If minute investigation is conducted then a big scam can be disclosed. Above said licenses holders, brokers, and computers operators of RTA office has committed offence under section 420, 467, 468, 471, 120-B IPC & 8, 13(1) D Prevention of Corruption Act 1988. After registration of the case investigation may be conducted Sd/- Devender Kumar.

3. That on the above said complaint FIR no. 554 dated 25.09.2020 under section 420, 467, 468, 471, 120-B IPC. 8, 13(1) D Prevention of Corruption Act 1988 was registries at the police station Camp District Palwal.

4. That after lodging the FIR, the investigation was set into the motion and initials investigation was conducted by Anil Kumar, HPS, Deputy Superintendent of Police, HQ Palwal. Thereafter Special Investigating Team (SIT) was constituted vide order sr. no. 3997-R/SP dated 01.10.2020 passed by Ld. Superintendent of Police Palwal. During the course of investigation the relevant record from Gurugram, Nuh and Faridabad was obtained. On 06.10.2020, 46 files were taken into police possession from RTA Office Palwal and detail of disputes licenses was also obtained. On 07.10.2020 delivery registered of ready licenses was taken into police possession and attendance registered of September month 2020 and details of license no. HR-3820060189824, HR-3820070189924 and HR-3820020202778 was obtained. On 16.09.2020 and on 17.09.2020 notices were given to the applicants whose licenses were printed and record from the RTA department Palwal was also obtained. Report pertaining to above mentioned three licenses was obtained from the RTA Gurugram. Details of printing of for the period 01.01.2020 to 20.09.2020 was obtained from Rosema Company who are authorized to print the licenses. In the reply of Rosema Company it is stated that accused Yogesh had taken the printed licenses.. Thereafter on 21.10.2020 accused Yogesh son of NirottamLalR/o Hodal District Palwal was arrested. During the course of interrogation he suffered his disclosure statement vide which he admitted his involvement in commission of the said crime. Then sections 66-C & 68-D IT Act & section 201 IPC were added. On 05.11.2020 accused Nakul was arrested and he suffered his disclosure statement and got recovered one mobile phone Samsung and laptop along with Rs. 30000/-in pursuance thereof. It is co-accused Nakul, who in his disclosure statement disclosed that prints-out of driving licenses *were in possession of the co-accused Uday and co-accused Chanderpal, Rafiq, Ali Mohammad and Akbar Ali. Later some other co-accused were arrested.*

5. That It is relevant to mention here that during the course of investigation on finding the sufficient evidence accused Rafik was arrested on 17.11.2020 and during the course of interrogation he suffered his disclosure statement vide which he admitted his involvement in commission of the said crime. On completion of the investigation qua the arrested accused Yogesh, Nakul and Rafik Challan was prepared and submitted before the Ld. Illaqua Magistrate on 18.01.2021.

6. That on 15.02.2021 accused Rajesh son of Guganram R / o Khatiwas District Mahendgarh was arrested and accused Omdutt son of Lakhiram R/o Mandhnaka was arrested on 04.03.2021. Accused Akbar Ali son of Abdul Khan R/o Kot P.S. Hathin was arrested on 13.03.2021. Accused Mohd. Ali son of Safed Khan joined the investigation on the direction of Ld. ASJ Palwal on 23.06.2021. Accused Chandrpal Son of Jile Singh R/o Kirki Tehsil Sohna District Gurugram joined the investigation on 02.07.2021 on the direction of Ld. ASJ, Palwal. Accused Uday son of Ranbir Singh R/o Januali joined the investigation on 09.07.2021 on the direction of Hon'ble Punjab and Haryana High Court. Accused Praveen Kumar Son of Balbir Singh R/o Hatana surrendered before the Ld. Illaqua Magistrate on 03.08.2021 and joined the investigation. Accused Naresh Kumar Son of Rameshwar and Sachender son of Mahender were arrested on 26.09.2023. Accused Babita was arrested on 03.09.2023. All the above said accused suffered their disclosure statement vide which they admitted their involvement as well as petitioner's involvement in the commission of the said crime. Challan Sagainst above accused was prepared on dt. 15.05.2023 and submitted before the Ld. Illaqua Magistrate on 05.06.2023. It is further submitted that as per the record i.e. copy of work distribution register and copy of IP Address of NIC the petitioner was deputed their during the period when the above said scam was done and the licenses were uploaded from the IP Number of the petitioner i.e. 10.145.225.109.

7. That it is further submitted that it significant to mention here that the petitioner was working to print Driving License in RTA Officer through Rosmerta Technology Ltd company. He had printed wrong licenses in collusion with the brokers after taking bribe. He is main person who printed and prepared the false and fabricated licenses.

8. That custodial interrogation of the petitioner is very much required to know the truth and to know about the other persons involved in the scam and to know about the bribe what has taken in leu of printing the fabricated licenses. If at this stage concession of bail is granted to the petitioner the truth may be suppressed and the petitioner may abscond and shall not appear before the investigating agency as well as Ld. Trial Court as and when *required and may create hindrance in the administration of justice.”*

4. Petitioner seeks bail on the grounds that as per case of the prosecution petitioner allegedly was involved in printing of licenses from 01.01.2020 to 20.09.2020 and in fact it was Yogesh who had printed licenses. Petitioner’s job was to print driving licenses in RTA Office through Rosmerta Technology Ltd. Company. Petitioner’s counsel further submits that based on such allegations, it is also clear that even if licenses were printed by the petitioner but the same were checked by the RTA office and if there was some mistake, they would have been corrected and only then it was sent to higher officials for approval and only when these documents are approved, then these documents get uploaded in government portal. As such petitioner is entitled to bail.

5. On this, State counsel Mr. Rajat Gautam, Addl. AG, Haryana, submitted that they have got sufficient evidence against the petitioner and interrogation of one of the co-accused Babita brought to their notice that a massive amount of money was received by the accused as bribe and as per disclosure statement of Babita, she had received around Rs.20 crores which is 30% of the bribe amount. Further 30% of share of bribe amount i.e. Rs.20 crores had also gone to HCS officer who was posted as Additional Commissioner, Palwal-cum-RTA Secretary and remaining 40% would go to Nakul Advocate, Rafiq Ahmad, Uday, Akbar Ali and Mohammad Ali and other officials of RTA, Palwal namely Yogesh, Chander Pal, Rajesh, Om dutt, <u>Ravinder</u> (petitioner), Naresh Kumar, Sachender, Poonam and Pawan etc. Based on disclosure statement dated 01.10.2023, State counsel further argued that it is a massive scam involving bribe of Rs.70 crores, out of which Rs.20 crores was received by Babita, Rs.20 crores to Additional Commissioner and remaining Rs.30 crores had been distributed to officials named in the disclosure statement. State counsel opposes the bail by submitting that custodial interrogation is required to unearth the entire scam which is of massive proportion.

6. An analysis of aforesaid arguments and perusal of para Nos.7 & 8 of reply, would lead to the outcome that there is sufficient evidence collected against the petitioner which shows his involvement and wrong printing was done intentionally for taking bribe and investigation also points out towards involvement of petitioner along with officials working with or posted in the office of RTA, Palwal, which further shows that once the petitioner would print out licenses then the same were being approved by the higher officials.

7. Given the magnitude of the crime, the petitioner is not entitled to anticipatory bail.

8. 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.

9. In <u>State of Gujarat v. Mohanlal Jitamalji Porwal</u> (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....."

10. In <u>State rep. by CBI v. Anil Sharma</u>, (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 ensconded 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 insulted 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.

11. 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].

12. 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.

13. 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.

14. 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.
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> [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.

15. 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.

16. 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.

<u>Petition dismissed</u>. All pending applications, if any, also stand disposed.

(ANOOP CHITKARA)
JUDGE

26.04.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.