

2024:PHHC:080433



136 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-15019-2024
DECIDED ON: 22.03.2024**

RAMESH CHAND DHIMAN
.....PETITIONER

VERSUS

CBI, CHANDIGARH
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gagandeep Goel, Advocate
 for the petitioner.

 Mr. Parveen Chauhan, Advocate for
 Mr. GDS Wasu, Advocate
 for the respondent.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 438 Cr.P.C., seeking anticipatory bail to the petitioner in FIR No. RC0052022A0002 dated 09.02.2022, under Sections 120-B IPC read with Section 7, 7A, 8 and 12 of Prevention of Corruption Act, 1988, registered at Police Station CBI, ACB, Chandigarh.

2. The brief facts of the case are that M/s. E.C. Blades & Tools Private Limited, 284, Industrial Area, Phase I, Chandigarh was awarded the contract for supply of 28 set of Bogey Frames on 14.12.2021 to Chitranjan Locomotive Works of Indian Railways. Accused Sonu Arora and Rajan Gupta being Directors of M/s. E.C. Blades & Tools Private Limited, Chandigarh used the services of accused

Praveen Vyas for contacting the officers of Chitranjan Locomotive Works for delivery of bribe as demanded by them in lieu of award of contract and enhancing the quantity of material to be supplied. It is also alleged that accused Sonu Arora and Rajan Gupta were in criminal conspiracy with accused Ravi Sekhar Sinha, Principal Chief Material Manager, Chitranjan Locomotive Works, Indian Railways, Praveen Vyas, Pawan Kumar Singh and Vinod Kumar for obtaining undue favour in award of railway contract and processing of bills etc. by paying illegal gratification to accused Ravi Sekhar Sinha, Principal Chief Material Manager of Chitranjan Locomotive Works, Indian Railways through other private accused persons Praveen Vyas, Pawan Kumar Singh and Vinod Kumar working on behalf of directors of M/s. E.C. Blades & Tools Private Ltd.

3. It has been contended by learned counsel for the petitioner initially FIR was registered against 6 persons, wherein, the petitioner was not named as an accused. The petitioner has been arrayed as an accused by the respondent-CBI while presenting supplementary report under Section 173(8) Cr.P.C. It is further contended that the petitioner was not served any notice under Section 41/41-A Cr.P.C. for joining investigation.

4. Learned counsel appearing for the respondent-CBI has opposed the prayer made in the present petition stating that despite issuance of various notices, the petitioner has not joined the investigation, meaning thereby, he is not co-operating in any manner. The assertion is that the custodial interrogation of the petitioner is required to get his voice samples. Learned counsel for the petitioner has placed reliance upon the judgments of the Apex Court rendered in “**Sushila Aggarwal and others vs. State (NCT of Delhi) and another; decided on 29.01.2020, Satender Kumar Antil vs. Central Bureau of Investigation and**

another; decided on 11.07.2022 and Srikant Upadhyay and others vs. State of Bihar and another; decided on 14.03.2024”

5. Heard learned counsel for the parties.
6. No other argument has been raised by either of the parties.
7. In case of criminal investigation, the normal procedure prescribed for curtailing the right to life & liberty, is that the investigating officer can arrest the accused even without warrant. The court has extraordinary power to protect an innocent person. However, this power has to be exercised by the courts with due circumspection.
8. It is settled proposition of law that power exercisable under Section 438 Cr.P.C., is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in “***State vs. Anil Sharma***”; (1997) 7 SCC 187, held as under:-

“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 a suspected person is of tremendous advantage in disinterring many useful informations and also material which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is 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 needs 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 a responsible manner and that those entrusted with the

task of disinterring offences would not conduct themselves as offenders.”

9. From the case file, it is evident that the petitioner has neither opted to appear nor joined the investigation even, after filing of supplementary challan wherein, he has been specifically named as an accused, which is sufficient for this Court to infer that he is evading the process of law. Moreover, theailable warrants of arrest issued to the petitioner received back unexecuted meaning thereby, he is intentionally avoiding his service. The judgments referred by the petitioner is of no help, as he is intentionally not appearing and there is no requirement for issuance of notice under Section 41-41-A, once he is appearing before the Court.

10. Keeping in view the conduct of the petitioner, who is evading the process of law intentionally added with the fact that his voice sample is to unearth the ramifications involved in the present case, which will ultimately help the Investigating Agency to reach to a logical conclusion, this Court is of the view that custodial interrogation of the petitioner is necessary.

11. In view of the discussions made hereinabove, this Court is of the firm view that the petitioner does not deserve the concession of pre-arrest bail, as such the same is dismissed being devoid of any merits.

22.03.2024

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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>