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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17493-2024

Decided on: 29.04.2024

Nawabuddin

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:

HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:

Mr. Shivam Chaudhary, Advocate for the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
1	09.01.2024	Anti Corruption Bureau, Faridabad	7, 13(i)(b) & 13(ii) of Prevention of Corruption Act

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, had come up before this Court under Section 439 CrPC seeking regular bail.
2. On 16.04.2024, when the matter was listed for first time, this Court asked the State to file reply and granted interim bail to the petitioner and one of the reason of granting bail was that the petitioner had voluntarily agreed to declare his assets, which was mentioned in para 14 of the bail order.
3. Petitioner’s counsel submits that they have complied with the condition mentioned at para 14 of the order dated 16.04.2024, but inadvertently he has got one set of affidavits and he is handing it over to the State counsel, who is directed to hand it over to the petitioner’s employer. Petitioner’s counsel also submits that they shall not claim such declaration as self incrimination, violation of Article 20/21 of Constitution of India or any other fundamental right/law. Counsel further submits that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family. State to keep photocopy of the affidavits regarding declaration of assets and hand it over to the investigator for his record, who may verify such assets if required and proceed in accordance with law, if any anomalies found.

4. The State's counsel does not dispute the contention made by counsel for the petitioner, but opposes the bail.

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

6. Prosecution's case is being taken from reply dated 22.04.2024, which reads as follows:-

" That brief facts of the present case are that FIR No.1 dated 9.1.2024 got registered by complainant Kartar Singh son of Padam Singh, resident of village Pawta district Faridabad with the averments that many days ago from today one person namely Nawabuddin (Petitioner) ALM came to his house and he introduced himself as ALM of Dhauj Bijli Ghar and told that your electricity meter is in name of your wife Omwati and it is overload, in this regard Sukhpal J.E(co-accused) has called you. Upon this the complainant met Sukhpal JE in the office of JE situated in PS Dhauj then he told the complainant that there is overload on your electricity meter, the complainant replied that his meter is fine. Upon this he told the complainant that we have photographs of your electricity meter and your house and you will have to give lot of fine. When the complainant asked as to how it can corrected then he be demanded ₹30,000 as bribe. When the complainant told him that he do not have money at this time then he told that I will send my ALM Nawabuddin to his house to take money. Thereafter, the complainant received phone call from Nawabuddin ALM that he is coming to his house for taking money. The complainant do not want to give bribe to Sukhpal JE and Nawabuddin ALM. The complainant stated to the ALM that today he has only Rs. 20,000/- and he will give Rs. 20,000/-. Thereafter the complainant requested for taking legal action against Nawabuddin ALM and Sukhpal J.E. The matter was brought in the notice of the senior officer.

3. That thereafter a raiding party was constituted by Insp. Bhagat Singh alongwith ASI Sanjeev Kumar, HC Sonu, HC Charanjeet, EHC Yash Pratap, EHC Ram singh and Ct. Ombir Singh. At that time the Investigating Officer was present at Pali Chowk in connection with the investigation of Case FIR NO. 408/20202. Sh. Harikishan Manager HSIIDC (Eng.) Faridabad was deputed as a Gazetted Officer and Sh. Amir Singh Assistant Manager as a shadow witness, reached raiding at Pali Chowk to assist the raiding party. Thereafter, the investigating Officer completed the required formalities., Necessary instructions were given to the complainant and the shadow witness. The raiding party reached near the house of the complainant and stood some distance away. After sometime, raiding party received a signal from the shadow witness and then they reached inside the house of the Complainant and on indication apprehended a person with the help of the raiding team. The Gazetted Officer and the Investigating Office gave their introduction and on asking that person stated his name as Nawabuddin ALM i.e., the present Petitioner. The bribe amount was recovered from the pocket his jacket. The number of the currency notes were checked and found the same as mentioned in the handing over memo. Thereafter hands of the accused/Petitioner and the complainant were washed in the solution of Sodium Carbonate Powder, the same turned into pinkish in color. It is relevant to mention here that all the necessary formalities as required were completed by the Investigating Officer.

4. That thereafter accused/Petitioner told the raiding party that he has been sent by co- accused Sukhpal J.E for taking the bribe amount and

now he is making call from his mobile number 81478830988 to him telling him to come to PS Dhauj where the DHBVN office is situated. The matter was again brought in the notice of the Senior Officers. The recovered amount was again handed over to the accused/Petitioner to hand over the same to co-accused Sukhpal J.E. The raiding party reached near PS Dhauj and again instructions were given to the Complainant and the shadow witness. Thereafter on receiving the signal after exchange of bribe amount, the raiding party immediately reached in the office of the DHBVN and apprehended a person. The Gazetted Officer and the Investigating Officer gave their introduction and asked his name then he disclosed his name as Sukhpal JE. The bribe amount was recovered from the pocket of his jacket the number of the currency notes were again checked and found the same. Hands of the co-accused Sukhpal J.E were also washed in the solution of Sodium Carbonate Powder and solution turned in to pinkish in color. After that raiding party completed all the necessary formalities and arrested both the accused Petitioner and co-accused Sukhpal J.E.

5. That during the investigation of the case section 13(1)(B) r / w 13 (2) P.C.Act was added in the present case.

6. That the Petitioner is taking the wrong plea that, he was following the orders of his seniors and he has been made scapegoat in the present case. The conversation held between the complainant and the Petitioner, meaning thereby that the Petitioner has demanded the bribe and the amount was recovered duly in the presence of the Gazetted Officer and others. It is pertinent to mention here that the bribe amount was firstly recovered from the accused/Petitioner and thereafter he handed over the same to the co-accused Sukhpal J.E on his asking. The Investigating Officer has also prepared recovery memo in respect of both the accused duly signed by the Gazatted Officer/Independent Witness and other witnesses. And thus the Petitioner is just trying to mislead this Hon'ble Court.

7. That during the investigation of the case, the Investigating Officer has collected the audio-recording of conversation held between complainant and the accused/Petitioner dated 09.01.2024 alongwith Certificate under section 65-B of Indian Evidence Act. It is pertinent to mention here that thereafter accused/Petitioner talked to the co-accused Sukhpal J.E. on mobile number 8178830988 (mobile number of wife of petitioner) on 09.01.2024 and this recording was also taken into possession by the investigating Officer. The translation of the conversation held between the accused/Petitioner and the complainant is attached as Annexure R-I. The translation of the conversation held between the co –accused and the accused/Petitioner are attached as Annexure R – II. It is also relevant to mentioned here that Investigating Officer has also obtained voice samples of the complainant and the accused/Petitioner after taking permission from the Ld. Addition Sessions Judge, Faridabad and the result of the analysis is pending. During the investigation of the case, Investigating Officer has also obtained the call detail of the complainant and the accused/Petitioner and co-accused establishing telephonic conversation and corroborating the Complainant's version.

8. That during the course of investigation the Investigating Officer recording statement of the complainant u/s 161 Cr.PC, in that statement the Complainant has clearly mentioned that the accused/Petitioner and co-accused has made a demand bribe and thereafter accepted the same and thus corroborated with the version of the complaint. The statement of the complainant was also got recorded u/s 164 Cr.PC on 11.01.2024 before the Ld. JMIC, Faridabad and in this statement he also supported the prosecution case mentioning about the demand and acceptance of

bribe made by the accused/Petitioner and co-accused.

9. That quite an active role, has been attributed, by the Petitioner being ALM of the DHBVN, Faridabad who has not only demanded the bribe but even received the same from the complainant for himself and for the co-accused Sukhpal J.E. There is a serious apprehension that in case, enlarged on bail, the applicant could influence the witnesses of the case, to dissuade from their testimony in the Ld. Court.

10. That after completion of the investigation of the case, charge sheet against the accused/Petitioner and co-accused has been submitted before the Id. Trial Court and the same is pending there for adjudication. So far as regular bail application of the accused/Petitioner is concern, same has been dismissed by the Ld. ASJ, Faridabad vide order dated 12.02.2024 and 23.03.2024 respectively.

11. That after filing the charge sheet of the accused/Petitioner, the prosecution sanction as accorded by the competent authority has also been received by the Investigating Officer and the same is being submitting before the Id. Trial Court.

7. Given the facts and circumstances peculiar to the case coupled with the fact that petitioner had voluntarily declared assets and considering the amount involved, nature of allegations and also the period of custody which is more than 3 months, there would be no justification for further pre-trial incarceration.

Petition is allowed. Interim order dated 16.04.2024, is made absolute. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

29.04.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.