

CRM-M-17573-2024
Decided on: 25.04.2024

Versus

State of Haryana ...Respondent

Present: Mr. Suresh Kumar Jindal, Advocate for the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana.

*** * * ***

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
20	12.01.2024	Chandni Bagh, Panipat	120-B, 166, 166A, 202, 217, 218, 389, 506 IPC and Section 7, 8 & 13 of PC Act 1988

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 had handed over the affidavits to the Investigator and voluntarily complied with the order of declaring assets and it is submitted 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 custodial investigation would serve no purpose. The investigator may verify such assets if required and proceed in accordance with law, if any anomalies found. The concerned investigator is further directed to forward one original copy of the affidavit to the petitioner's employer within two weeks from today.

4. The State's counsel does not dispute the contention made by counsel for the petitioner, but opposes the bail by filing reply dated 24.04.2024, which is taken on record and copy of the same supplied to counsel for the petitioner.

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 24.04.2024, which reads as follows:-

"(i) That on 06.01.2024, one Nafis S/o Ali Hasan, presented a written complaint in P.S. Chandni Bagh, Panipat, inter alia with allegations that his brother namely Nafis has been beaten up and killed by 7-8 boys including "Chautala" and "Kala" at Premi Dhabha, Sanoli Raod, Panipat on 17.12.2023. It was further alleged that due to pressure of Premi Dhabha owners he gave a written complaint before police that his brother has died due to some deadly disease but later on he learnt that doctor mentioned about the injuries in the PMR. On the basis of said complaint and nature of crime a formal FIR No. 07 dated 06.01.2024 was registered u/s 302 and 34 of IPC at P.S Chandni Bagh, District Panipat. True Copy of FIR No. 07 dated 06.01.2024 u/s 302, 34 of I.P.C registered at P.S Chandni Bagh, Panipat is annexed herewith as Annexure R-1.

(ii) That on 10.01.2024, Nafis S/o Ali Hasan, presented one another complaint bearing no. 46-Peshi dated 10.01.2024, before Superintendent of Police, District Panipat. The contents of the complaint are reproduced for the ready reference of the Hon'ble Court as under:

"I, Nafis S/o Ali Hasan, R/o Gulshan Nagar, Kairana, District Shamli, Uttar Pradesh. I work as a labourer. My younger brother Arif, was married and had two children. He used to live with his family in Kairana, District Shamli. To support his family, Arif used to do the work of garbage picking in different areas of Panipat. On 17.12.2023, my brother Arif had come to Panipat in the morning to collect garbage. My brother did not return home in the evening. On 18.12.2023, I got a call from my uncle Adarish's son Ashu, who lives in a slum near Sanauli Road, Malik Petrol Pump, and he told me that Arif and Raju, R/o Slum Near Malik Petrol Pump, Sanauli Road, had a fight at the Premi Dhabha, and Arif was beaten to death by them. Thereafter, I went straight to P.S. Chandni Bagh, Panipat, with my family. I met a policeman in the police station who told his name as ASI Satish Kumar, and he told me that on 17.12.2023, the body of my brother Arif was found near Premi Dhaba, near ABC Hospital, Sanoli Road, and he died due to excessive drinking and cold. When I started writing a complaint about my brother's murder, the policeman said that you should write that your brother was ill for a long time. I refused to write this and took my family to the government hospital in Panipat. When I went to the hospital and saw my brother's body, I saw injury marks on many parts of his body. We met the media people there, and we told them the whole thing. After some time, the police vehicle arrived and took me aside and said that either write down what we are saying or else, no matter how many days pass, we will not get the dead body of my brother. That night, we went back to our home in Kairana. In the morning, I got a call from a person named Anil Madan from mobile number 70155-21470 who asked me to come to Malik Petrol Pump, Sanoli Road, Panipat, whatever was to happen has happened, and asked me to sit and compromise. I refused to accept the compromise. Due to pressure, I came to Malik Petrol Pump with my family members. Some people threatened us at the petrol pump and made us sit in the panchayat. After some time, SHO Karambir took me and my mother, Vasila, from the petrol pump to Chandni Bagh Panipat in his government

vehicle. However, when I started filing my complaint at the police station, no one wrote the complaint according to me. The police got appended my signatures on some papers. The police made my family members sit in the police station and made us compromise with the other party. Thereafter, after the post-mortem of Arif, we took his dead body and brought it to our home in Kairana. When we left the Government Hospital, Panipat with Arif's body, Anil Madan said that he would give us Rs 3.50 lakh for not filing a complaint and that he had also given Rs. 4 lakh to the police. We buried the body in the graveyard in Kairana. When I called Anil Madan on his number regarding the Post-Mortem Report, he threatened me and asked me what will I do with the Post Mortem Report. A few days after my brother's murder, I got a call from a person who said that if he enters Panipat, he would shoot me. On 06.01.2024, I gathered my family members and filed a complaint in P.S. Chandni Bagh in the hope of justice, on which a case of murder of my brother was registered and CIA police arrested accused persons involved in the murder of my brother Arif. The officials of P.S. Chandni Bagh, Panipat, namely ASI Satish, SHO Karambir, who tried to suppress the case of the murder of my brother Arif. Legal action should be taken against police officials of P.S. Chandnibagh, namely A.S.I. Satish, and S.H.O. Karambir, who tried to suppress the murder case of my brother Arif, and against Anil Madan and others involved who threatened us by colluding with the police on the basis of money, and justice should be provided to my family."

The said complaint was marked to the then Assistant Superintendent of Police, Samalkha, District Panipat for enquiry. The enquiry was conducted by Sh. Mayank Mishra, the then Assistant Superintendent of Police, Samalkha, Panipat. During enquiry, both parties were called and enquired with regard to facts of the complaint. After completion of enquiry, a report bearing no. 40-SPL was sent to Superintendent of Police, Panipat with the opinion to register FIR under sections 120-B, 166, 166 - A, 202, 217, 218, 389, 506 of IPC and 7, 8, and 13 of the Prevention of Corruption Act and to suspend police officials who are involved in this case with immediate effect as they can use their official position to affect the investigation. The relevant portion of the enquiry report is reproduced below for the ready reference of Hon'ble Court: -

"Sir, with regard to the above-mentioned subject, it was found during enquiry that on dated 17.12.2023, Aarif, S/o Ali Hasan, R/o Gulshan Nagar, Village Kairana, District Shamli, UP, was beaten to death by accused Raju Chautala, S/o Hari Om, R/o Vidhyanand Colony, Panipat, along with his friends Sukram Pal Kala, S/o Dalbir Singh, R/o Village Diwana, District Panipat, Harjinder Singh, S/o Jaswant Singh, R/o Deshraj Colony, District Panipat, and Baljit @ Bholu, S/o Sardar Avtar Singh, R/o Patel Nagar, Panipat. Despite having information about this heinous crime, ASI Satish Kumar No. 903 and SHO Karambir No. 173 did not register the FIR for 21 days. During this time, both the aforementioned police officials mislead their senior officials by not telling the truth. When the complainant party again presented a fresh complaint and their shown their intention to appear before higher officials, only then FIR No. 07 dated 06.01.2024, U/s 148, 149, 323, and 302 IPC was registered. The same is being investigated by CIA-1, and five persons have already been arrested. The investigation of the said case is still in progress. Rajesh Malik, R/o Village Ugrakhedi, District Panipat, Anil Madan S/o Chand Prakash Madan, R/o House No. 2298, Sector 15, District Sonipat, Anup @ Bhanja, R/o Ugrakhedi, District Panipat, and Ishant @ Ishu, S/o Naresh Kumar, R/o New Ramesh Nagar, Tehsil Camp, Panipat, in collusion with

accused persons and police officials, pressurized the complainant party. The accused persons have also produced evidence of collusion between the accused party and police officials, namely ASI Satish Kumar and Karambir, the then Station House Officer of P.S. Chandnibagh. The acts of both police officials fall within the purview of corruption and crime. The victim who came to the police for justice has been denied the same. Other officials of the police station are also under doubt, which can be clarified after a deep investigation after registration of FIR. Hence, the case should be registered and requires a deep investigation, as the victim has already been traumatized a lot. FIR under sections 120-B, 166, 166-A, 202, 217, 218, 389, 506 of IPC and 7, 8, and 13 of the Prevention of Corruption Act is recommended to be registered. The police officials who are involved in this case are recommended to be suspended with immediate effect as they can use their official position to effect the investigation."

(iii) It is pertinent to mention here that during the aforesaid enquiry Anil Madan was also joined and he gave his written statement wherein he confessed to his role in crime and also admitted that he had taken a sum of Rs. 3,80,000/- from accused Kala's father for settlement with the police, and also produced screenshots of his Whatsapp chat with accused ASI Satish Rohilla. The perusal of whats chat showed that the accused Anil Madan had shared online video of news channel (relating to murder case of brother of complainant on 19.12.2023) with ASI Satish Rohila and thereafter made several whats app call to him. True copy of written statement of Anil Madan is annexed herewith as Annexure R-2 and true copy of screenshots of Whatsapp chat between Anil Madan and accused ASI Satish Rohilla is annexed herewith as Annexure R-3.

iv)

Thereafter, the aforesaid enquiry report along with complaint bearing no. 46-Peshi dated 10.01.2024, was received in P.S Chandni Bagh, District Panipat for registration of FIR and investigation as per the order of Superintendent of Police, Panipat.

On the basis of said complaint, enquiry report and nature of crime, a formal FIR No. 20 dated 12.01.2024 was registered under sections 166, 166-A, 202, 217, 218, 389, 506, 120-B of IPC and 7, 8, 13 of P.C Act, at Police Station Chandni Bagh, District Panipat. True Copy of FIR is already annexed by the petitioner as Annexure P-1.

(v) That after registration of FIR, a Special Investigation Team (SIT) was constituted and the investigation of the case was carried out by Narender Singh, HPS, Deputy Superintendent of Police, Samalkha, Panipat. During investigation, on 13.01.2024, accused Rajesh Malik S/o Sh. Molu Ram and Ishant @ Ishu, S/o Naresh Kumar, were joined in the investigation of present case and interrogated with regard to allegations against them. Thereafter, they were produced before Ld. Court, Panipat and their statements U/s 164 of Cr.P.C were recorded. It is pertinent to mention here that accused Ishant @ Ishu disclosed about the role of accused Anil Madan in the crime as per his statement u/s 164 of Cr.P.C. True copy of statement u/s 164 of Cr.P.C of accused Ishant is annexed herewith as Annexure R-4. That on 14.01.2024, Dalbir S/o Mai Ram and Vijay S/o Shri Lakshman Das, were joined in the investigation of present case and interrogated with regard to facts of the case. Thereafter, they were produced before Ld. Court, Panipat and their statements U/s 164 of Cr.P.C were recorded. It is pertinent to mention here that Dalbir Singh (father of

accused Sukhrampal) revealed that they had given a sum of Rs. 3,80,00,0/- to accused Anil Madan to get the compromise done. True copy of statement U/s 164 of Cr.P.C of Dalbir is annexed herewith as Annexure R-5.

(vii) That on 15.01.2024, record pertaining to deployment/posting of accused Inspector Karambir No. 173 and ASI Satish Kumar No. 930 was obtained from OSI Branch, SP office, Panipat and taken into police possession as evidence. Thereafter, video pertaining to statements recorded by the family members of deceased Arif regarding his death, before Voice of Panipat, You-Tube Chanel, was obtained along with certificate u/s 65-B of Indian Evidence Act from Cyber Branch, Panipat, and taken into police possession as evidence.

(viii) That on 17.01.2024, accused Karambir S/o Mailal (Petitioner) was joined in the investigation of present case and interrogated with regard to allegations against him. On finding incriminating evidence against him, he was arrested in the present case in due course of law. During investigation, accused Karambir confessed to his role in crime and got recorded his disclosure statement that he was posted as Station House Officer, P.S Chandni Bagh, Panipat since 14.11.2023. On 17.12.2023, information was received in Police Station regarding a dead body at Premi Dhaba. On receipt of information, he and ASI Satish Kumar reached at Premi Dhaba and they came to know that the person lying dead has died because of injuries caused to him in a fight. On the next day, he came to know that the person was murdered by the cook of Premi Dhaba namely Raju @ Chautala along with his friends Harjinder @ Harman, Sukrampal @ Kala, Baljeet @ Bholu. During this time, they got seated Raju @ Chautala and owner of Premi Dhaba namely Tony in the Police Station. In the

meantime, Rajesh Malik came in Police Station who works as financier and requested to the petitioner for release of owner of Premi Dhaba namely Tony. The petitioner demanded Rs. 2 lacs for the release of owner of Premi Dhaba namely Tony and the demand was agreed by Rajesh Malik on behalf of Tony owner of Premi Dhaba. Thereafter, accused Anil Madaan met petitioner and co-accused ASI Satish and they strike a deal to close the case of murder and promised for good gratification. On this, petitioner and ASI Satish told the family of deceased that he had died because of drinking excessive liquor. Thereafter, family of deceased went to Civil Hospital, Panipat from the Police Station and they gave their statements to the news and you tube channels. Thereafter, petitioner in conspiracy with other accused got the matter compromised for Rs. 3.5 Lacs and got them write in the complaint that the deceased had died naturally and got the amount to be placed in the possession of co-accused Anil Madaan and Rajesh Malik. Thereafter, he got recovered his mobile phone make "Oppo A58", which was sealed with stamp MS/1 and taken into police possession as evidence. On 18.01.2024, he was produced before Ld. Court, Panipat and sent to judicial custody as per the orders of Ld. Court. True Copy of Disclosure Statement of the petitioner is annexed herewith as Annexure R-6.

(ix) That on 18.01.2024, itself, accused Satish Kumar, S/o Shivilal, R/o Jasbir Colony, Gali No. 2, Near Himgiri Public School, Noorwala, District Panipat was joined in the investigation of present case and interrogated with regard to allegations against him. On finding incriminating evidence against him he was formally arrested in the present case in due course of law. During investigation, accused Satish Kumar confessed to his role in

crime and got recorded his disclosure statement. Moreover, he got recovered his mobile phone make "Samsung A-52", which was seal with stamp MS/1 and taken into police possession as evidence. Thereafter, case property was deposited in the Malkhana of police station. On 19.01.2024, he was produced before Ld. Court, Panipat and sent to judicial custody as per the order of Ld. Court.

(x) That on 20.01.2024, record pertaining to officials posted on SDO/JDO duty in P.S. Chandnibagh on 17.12.2023, a copy of FIR No. 07 dated 06.01.2024 registered under sections 302 and 34 of IPC at P.S. Chandnibagh, and a copy of the record pertaining to information received regarding the alleged incident dated 17.12.2023 through dial 112 were obtained and taken into police possession as evidence through recovery memo. Thereafter, HC Gurmeet No. 104, SI Krishan No. 589/RR, SI Rajender Singh No. 46, EASI Vikrampal No. 902 and HC Tejpal No. 343, were joined in the investigation of present case, interrogated with regard to facts of the case and their statements under section 161 of Cr.P.C were recorded. Thereafter, Toni S/o Lakshman Das (owner of Premi Dhabha, Sanoli Raod, Panipat) and Pintu S/o Shivlal (worker at Premi Dhabha), were joined in the investigation of present case, interrogated with regard to facts of the case and their statements under section 161 of Cr.P.C were recorded.

That on 25.01.2024, P/SI Mahipal, I.O. of FIR No. 07 dated 06.01.2024 was joined in the investigation of present case, he produced copy of PMR bearing No. VD/73/PNP/2023 dated 19.12.2023 of deceased Arif S/o Haran Ali (brother of complainant) and copy of statement u/s 164 of Cr.P.C of Pintu, S/o Shivlal in FIR No. 07, which were taken into police possession as evidence.

(xii) That on 03.02.2024, parcel of mobile phone recovered from accused Karambir was taken out from Malkhana of Police station and brought to Cyber Cell, Panipat. Thereafter, screenshots of Whatsapp chat among accused Karambir and accused Rajesh Malik were got prepared from ASI Praveen No. 298, Incharge Cyber Cell, Panipat. The screenshots were obtained along with certificate under section 65-B of Indian Evidence Act and taken into police possession as evidence through recovery memo. The case property was deposited in the Malkhana of Police Station.

(xiii) That thereafter, CDR pertaining to mobile numbers:- (i) 8814810873 of accused Karambir, (ii) 9416801176 of accused Satish, (iii) 9416122127 of accused Rajesh Malik, (iv) 8396868697 of accused Ishant @ Ishu, (v) 8171328900 of victim Nafish S/o Alihasan and (vi) 7015521470 of accused Anil Madan, was obtained from concerned companies and taken into police possession as evidence. It is pertinent to mention here that on scrutiny of CDR's of aforementioned phone numbers it was revealed that the mobile number which was being used by accused Anil Madan was on the Id of Shalini D/o Rajkumar, R/o House No. 401, Gali No. 1, Sudama Nagar Sonipat. The accused Anil Madaan had called the accused Rajesh on his mobile no. 9416122127 on 18.12.2023 and four times on 19.12.2024 and all four calls were outgoing calls from the accused Anil Madaan's mobile number. On 26.12.2023, Accused Karambir had called the accused Anil Madan from his mobile no. 881481873 at 1.39 P.M. It was further revealed that the accused Anil Madaan had made total 38 calls with accused Ishant @ Ishu on his mobile no. 83968697 (24 incoming calls and 14 outgoing calls). The accused Anil Madaan also had many phone calls with complainant on his mobile no. 81713-28900 out of which 10 calls were made on 18.12.2024 (nine calls were outgoing), two calls were made on 19.12.2024 and four calls were made on 06.01.2024

(all four of them were outgoing calls).

(xiv) That on 05.03.2024, copy of statement u/s 164 of Cr.P.C of victim Raju S/o Randhir in FIR No. 07 dated 06.01.2024, was taken into police possession as evidence.

(xv) That on 06.03.2024, relevant case property was deposited in the CFSL, Panchkula, Haryana vide RC No. 24 dated 06.03.2024 for examination. It is pertinent to mention here that CFSL report in this case is still awaited.

(xvi) That the police has collected the relevant material pertaining to the case and after completion of the investigation in proper, fair, thorough, deep and impartial manner, the police has prepared final investigation report under Section 173 Cr.P.C, on 14.03.2024 against the accused (i) Karambir S/o Mai Lal and (ii) Satish Kumar S/o Shiv Lal on basis of evidence, statements, documents, records and material available on police file and presented in the Ld. Court on 15.03.2024 under sections 120-B, 166, 166-A, 202, 217, 218, 389, 506 of IPC and Sections 13, 7 and 8 of Prevention of Corruption Act. The supplementary challan will be presented against remaining accused i.e. Anil Madan, Rajesh Malik, Ishant @ Ishu and Anup @ Bhanja as soon as the investigation qua them completes.

xvii) That thereafter, accused Anil Madaan joined the investigation of the case on 02.04.2024, and he was released in compliance of order dated 22.03.2024 passed by this Hon'ble Court in CRM-M-12294-

2024. The further investigation of the case is still under progress.

(xviii) That the current status of trial against the petitioner is that the case is now fixed for arguments on charge for 08.05.2024.

3. That there are total 36 witnesses in this case out of whom none of the witness has been examined in this case till date.

4. That the role of the petitioner is that he was posted as Station House Officer, P.S Chandni Bagh, Panipat since 14.11.2023. On 17.12.2023, information was received in Police Station regarding a dead body at Premi Dhaba. On receipt of information, he and ASI Satish Kumar reached at Premi Dhaba and they came to know that the person lying dead has died because of injuries caused to him in a fight. On the next day, he came to know that the person was murdered by the cook of Premi Dhaba namely Raju @ Chautala along with his friends Harjinder @Harman, Sukrampal @ Kala, Baljeet @ Bholu. During this time, they got seated Raju @ Chautala and owner of Premi Dhaba namely Tony in the Police Station. In the meantime, Rajesh Malik came in Police Station who works as financier and requested to the petitioner for release of owner of Premi Dhaba namely Tony. The petitioner demanded Rs. 2 lacs for the release of owner of Premi Dhaba namely Tony and the demand was agreed by Rajesh Malik on behalf of Tony (owner of Premi Dhaba). Thereafter, accused Anil Madaan met petitioner and co-accused ASI Satish and they strike at deal to close the case of murder and promised for good gratification. On this, petitioner and ASI Satish told the family of deceased that he had died because of drinking excessive liquor. Thereafter, family of deceased went to Civil Hospital, Panipat from the Police Station and they gave their statements to the news and you tube channels. Thereafter, petitioner in conspiracy with other accused got the

matter compromised for Rs. 3.5 Lacs and got them write in the complaint that the deceased had died naturally and got the amount to be placed in the possession of co-accused Anil Madaan and Rajesh Malik. The petitioner has also confessed to his role in crime in his disclosure statement, Annexure R-6.

5. That the petitioner has not been found to be involved in any other FIRs as per the Records verified by the police.

6. That the custody certificate dated 20.04.2024, the petitioner has undergone actual custody of 3 Months till date. True Copy of Custody Certificate is annexed herewith as Annexure R-7.

It is, therefore, prayed to the Hon'ble Court that the present Status Report may kindly be considered and the petition of the petitioner may please be dismissed, in the interest of justice."

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 approximately three 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

25.04.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.