

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25525-2024
Reserved on: 05.08.2024
Pronounced on: 30.08.2024

Vinod Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Dr. Anmol Rattan Singh, Sr. Advocate with
Ms. Kanishk Swaroop, Advocate
for the petitioner(s).

Mr. Aashish Bishnoi, DAG, Haryana.

Mr. Jitender Malik, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
10	03.05.2024	ACB, Hisar, District Anti Corruption Bureau, Haryana	7 of Prevention of Corruption Act

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.

2. As per paragraph 20 of the bail petition, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	25	12.12.2022	7, 13(1)(b) r/w 13(2) of PC Act and 120-B IPC	SVB Hisar, District Hisar

3. Facts of the case are being taken from the reply dated 21.05.2024, which reads as under:-

“2. That the brief facts of the case FIR are that Kulwinder Singh (Complainant) hereinafter referred to as the complainant was serving as Home Guard Department since 6/7 years and was relieved from duty in

the month of October 2023. The complainant met co-accused Ravi Parkash, who was posted with him in the office of Central Commander, District Sirsa on Home Guard Duty, who said to him that if he wanted to join in Home Guard, he would talk to his senior officials and appoint him on duty in lieu of Rs. 70,000/- as payment. It is alleged that complainant paid Rs. 60,000/- to co-accused Ravi Parkash and he was demanding Rs. 10,000/- more, however, the complainant was not inclined to make such payment of Rs. 10,000/- to the said co-accused Ravi Parkash. As such on the basis of these facts, a case FIR No. 10 dated 03.05.2024 u/s 7, 13(1)(b) r/w 13(2) (later on added) PC Act PS, ACB, Hisar registered against the co-accused Ravi Parkash.

3. That thereafter, a raiding party was constituted under supervision of Shareef Singh, DSP, PS, ACB, Panchkula and after doing the pre raid formal proceedings, a successful raid was conducted on co-accused Ravi Parkash, Home Guard in Centre Commander Office, Sirsa who was apprehended, red-handed, with bribe amount of Rs. 10,000/- and recovery of tainted bribe money of Rs. 10,000/- was made from him. On interrogation he suffered his disclosure statement admitting his guilt of demanding and accepting bribe from complainant in connivance with the petitioner. Section 13(1)(b) r/w 13(2) PC Act were added in this case. The true translated copy of disclosure statement of co-accused Ravi Parkash is annexed as Annexure R-1.

4. That during course of investigation complainant Kulwinder Singh got recorded a statement u/s 164 CrPc before Learned Duty Magistrate, 1st class, Sirsa in which he reiterated his version of complaint made to Anti Corruption Bureau and also disclose the name of the petitioner Vinod Kumar and Centre Commander Devi Dayal. The true translated copy of statement u/s 164 CrPc is annexed as Annexure R-2.

5. That during course of investigation the complainant adduced a CD containing contents of conversation which took place between complainant Kulwinder Singh and co-accused Ravi Parkash regarding demand of bribe for rejoining the Duty in Home Guard, Department. He also adduced his mobile phone instrument which is original source in which he recorded the said conversation of demand of bribe by the co-accused. He also furnished a certificate u/s 65-B Evidence Act, 1872.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State opposes bail and has referred to para 6 of the reply which reads as follows:

“6. That the custodial interrogation of petitioner/accused is required for recovery of bribe money of Rs. 43,500/- which was demanded and accepted by the petitioner from the co-accused as well as for proper and effective investigation.”

6. The petitioner is neither named in the complaint nor the recipient of money.
7. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.
8. Given the above, the penal provisions invoked 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 custodial interrogation or the pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.
9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaka Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.
10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:
- | | | |
|----|--|--|
| 1. | AADHAR number | |
| 2. | Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk. | |
| 3. | Mobile number (If available) | |
| 4. | E-Mail id (If available) | |
11. This order is subject to the petitioner's complying with the following terms. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.
12. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
13. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

14. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.