

CRM-M-25371-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25371-2024
Reserved on: 17.07.2024
Pronounced on: 30.07. 2024

Manjeet ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Tanvir S. Grewal, Advocate
for the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
9	08.03.2024	Anti Corruption Bureau, Karnal, District Karnal, Haryana	7, 7-A, 13(1(b), 13(2) of Prevention of Corruption (Amendment) Act 2018 (Sections 13(1)(b) & 13(2) of PC Act added later on) and Sections 384, 120-B IPC

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, has come before this Court under Section 439 of the Code of Criminal Procedure, 1973 (CrPC), seeking bail.
2. As per paragraph 14 of the reply dated 21.06.2024, no other criminal cases are pending against the petitioner.
3. Vide order dated 24.06.2024, Coordinate Bench of this Court had granted interim bail to the petitioner subject to the condition that he would appear before the concerned Special Judge, Karnal on15.07.2024 at 10a.m.
4. Counsel for the petitioner submits that the petitioner has complied with the above said order dated 24.06.2024 and surrendered before the concerned Court. He further prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

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5. Facts of the case are being taken from the reply dated 21.06.2024, which reads as under:-

“On 08-03-2024, the complainant Rajpal S/o Amarnath handed over his handwritten complaint to Inspector Tejpal, Anti Corruption Bureau, Karnal Range, Karnal, wherein he had alleged that he was having Canter bearing registration no. HR-45-B 3831, which was registered in the name of his wife Suman Devi. About 2 years ago, complainant sold the same to Jarnail Singh S/o Antram R/o Village Koer, for which complainant wife executed an affidavit regarding sale of said Canter and the same bears the signatures of both seller as well as buyer. Now this vehicle has been taken in police possession in Case FIR 660 dated 11-11-2023 u/s 8, 20 NDPS Act, Police Station Robertsganj, District Sonbhadra, Uttar Pradesh. After taking the said vehicle in police possession, its driver was also arrested by Uttar Pradesh Police. He (complainant) further stated that two Police officials namely Constable Sunil Kumar (co-accused) and Constable Manjeet (petitioner-accused) used to call him regarding the investigation of the said case through their mobile numbers 6393004361 and 9956191246, respectively and they used to threaten him that said vehicle in question is in the name of his wife, she would be arrested and if bribe of Rs. 50,000/- is paid, then they would hush up the matter. Complainant further stated that he had handed over a copy of affidavit regarding sale of said vehicle and he and his wife are innocent and they have no concern of any kind with that sold vehicle. Transfer of said vehicle in the name of purchaser is pending and both the police officials, under threat and duress, are demanding bribe of Rs. 50,000/-. Constable Manjeet (petitioner-accused) telephonically informed the complainant that Ct. Sunil Kumar Yadav (co-accused) had asked him to take bribe of Rs. 50,000/- from complainant during his return from Punjab. Both police officials by hatching a criminal conspiracy are raising demand of bribe from complainant but he didn't want to pay the bribe money to them. He has also recorded the said conversation and he will hand over the same lateron. Hence, the present Case FIR No. 9 dated 08-03-2024 was registered u/s 7, 7A, 13(1)0020(b), 13(2) PC Act, 1988 and 120-B, 384 IPC, Police Station, Anti Corruption Bureau, Kamal Range, Karnal.

3. That thereafter, the Superintendent of Police Anti Corruption Bureau, Karnal appointed Smt. Sudesh DEEO, Karnal as Gazetted Officer upon which the Gazetted Officer/Independent witness further appointed Sh. Rajesh Bhatia, Deputy Superintendent of her office as Shadow Witness. Raiding team was constituted and after applying Phenolphthalein powder on currency notes of Rs. 50,000/- the said notes were handed over to the complainant Rajpal who was instructed to talk with Constable Manjeet for his work and on raising his demand, the complainant was instructed to hand over Rs. 50,000/- tainted money to Constable Manjeet (petitioner-accused). The Shadow witness was also instructed to see and hear the conversation between complainant and accused and was further directed to give the signal to the raiding team. List of Currency notes, memo of handing over the notes and the search memo etc. were prepared. Thereafter, the complainant and shadow witness proceeded to meet

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Constable Manjeet and after some time, the complainant and shadow witness acted accordingly and thereafter, Constable Manjeet (petitioner-accused) was apprehended on spot near Dyal Singh College, Karnal. Upon asking him to produce the bribe money, petitioner Manjeet handed over the bribe money of Rs. 50,000/- held in his right hand to the independent witness/gazetted officer. The hands of the complainant, Rajpal and petitioner Manjeet were got washed separately and the solution thereof turned pink. The currency notes, nips of hand washes were converted into sealed parcels and were taken into possession vide recovery memo which were also signed by the respected witnesses. Site plan of the place of occurrence was also prepared."

6. Petitioner seeks bail on the grounds of pre-trial incarceration and further on the ground that during interim bail, petitioner neither absconded nor misused the interim bail. Petitioner's counsel further submits that the petitioner has been falsely implicated in the present case. Counsel for the State by making reference to role of the petitioner as mentioned in the reply dated 21.06.2024, opposes the bail and relevant portion of the same reads as follows:-

"...The investigating officer took into possession the mobile phone of petitioner Ct. Manjeet alongwith sim no. 99561-91246 and got inspected the same through Inspector Deepak Kumar, Cyber Cell Incharge, PS ACB Karnal, who upon inspection found that Ct. Sunil (co-accused) had sent the Case Diaries no. 11 dated 27-01-2024 and no. 13 dated 22-02-2024 of case FIR 660 dated 11-11-2023 u/s 8, 20 NDPS Act, Police Station Robertsganj. District Sonbhadra, Uttar Pradesh through Whatsapp message from his mobile phone to petitioner Ct. Manjeet mobile phone. The mobile phone and the prints of the whatsapp message (15 pages) alongwith the certificate u/s 65-B, Evidence Act were taken into possession vide separate recovery memo's. The investigating officer also recorded the statements of witnesses u/s 161 Cr.P.C.

That during the course of investigation on 11-03-2024, complainant Rajpal produced the audio recording device/ mobile phone, respectively, before the investigating officer, wherein demand of bribe/conversation was recorded among the complainant Rajpal and both accused persons viz Ct. Manjeet (petitioner-accused) and Ct. Sunil Kumar Yadav (co-accused) through their mobile phone on speaker, upon which the investigating officer with the help of Inspector Deepak and HC Balister, prepared the CD and its transcript in Hindi and after converting the CD's into a separate sealed parcels, the audio CD's, its transcript and certificates u/s 65-B, Evidence Act were taken into possession vide memo, which was signed by respective witnesses. The investigating officer also recorded the statement of witnesses u/s 161 Cr.P.C on even dates. The true translated copy of audio transcription is attached herewith as Annexure R-2."

7. An analysis of the above said evidence and pleadings clearly points out the

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petitioner's involvement. However, this Court is not considering that at this stage for framing of charges but is concerned with extension of judicial custody. As per paragraph 6 of the bail petition, the petitioner has been in custody since 08.03.2024. Given the penal provisions invoked regarding pre-trial custody, 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 further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.

8. In *Sanjay Chandra v. Central Bureau of Investigation*, (2012) 1 SCC 40, Supreme Court holds,

[28] We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardize the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.

9. The possibility of the accused influencing the investigation, tampering with evidence, intimidating witnesses, and the likelihood of fleeing justice can be resolved by imposing conditions. In *Sushila Aggarwal v. State (NCT of Delhi)*, **2020:INSC:106 [Para 92]**, (2020) 5 SCC 1, Para 92, the Constitutional Bench held that unusually, subject to the evidence produced, the Courts can impose restrictive conditions.

10. 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, subject to the following terms and conditions, which shall be over and above and irrespective of the contents of the form of bail bonds in chapter XXXIII of CrPC, 1973. This order shall come into force from the time it is uploaded on the official webpage of this Court.

11. In *Madhu Tanwar v. State of Punjab*, 2023:PHHC:077618 [Para 10, 21], CRM-M-27097-2023, decided on 29-05-2023, this court observed,

[10] The exponential growth in technology and artificial intelligence has transformed identification techniques remarkably. Voice, gait, and facial recognition are incredibly sophisticated and pervasive. Impersonation, as we know it traditionally, has virtually become impossible. Thus, the remedy lies that whenever a judge or an officer believes that the accused might be a flight risk or has a history of fleeing from

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justice, then in such cases, appropriate conditions can be inserted that all the expenditure that shall be incurred to trace them, shall be recovered from such person, and the State shall have a lien over their assets to make good the loss.

[21] In this era when the knowledge revolution has just begun, to keep pace with exponential and unimaginable changes the technology has brought to human lives, it is only fitting that the dependence of the accused on surety is minimized by giving alternative options. Furthermore, there should be no insistence to provide permanent addresses when people either do not have permanent abodes or intend to re-locate.

12. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above in the following terms:

(a). Petitioner to furnish a personal bond of Rs. Ten thousand (INR 10,000/); AND

(b) To give one surety of Rs. Twenty-five thousand (INR 25,000/-), to the satisfaction of the concerned court, and in case of non-availability, to any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned officer/court must be satisfied that if the accused fails to appear in court, such surety can produce the accused.

OR

(b). The petitioner will hand over to the concerned court a fixed deposit of Rs. Ten thousand only (INR 10,000/-), with the clause of automatic renewal of the principal and the interest reverting to the linked account, made in favor of the 'Chief Judicial Magistrate' of the concerned district, or blocking the amount above in favor of the concerned 'Chief Judicial Magistrate.' Said fixed deposit or blocking funds can be from any of the banks where the stake of the State is more than 50% or from any of the well-established and stable private sector banks. If the bankers are unwilling to make a Fixed Deposit in such an eventuality, it shall be permissible for the petitioner to prepare an account payee demand draft favoring the concerned Chief Judicial Magistrate for a similar amount.

(c). Such court shall have a lien over the funds until the case's closure or discharged by substitution, or up to the expiry of the period mentioned under S. 437-A CrPC, 1973, and at that stage, subject to the proceedings under S. 446 CrPC, the entire amount of fixed deposit, less taxes if any, shall be endorsed/returned to the depositor.

(d). The petitioner must also execute a bond for attendance in the concerned court(s) as and when asked to do so. The presentation of the personal bond shall be deemed acceptance of the declarations made in the bail petition and all other stipulations, terms, and conditions of section 438(2) of the Code of Criminal Procedure, 1973, and of this bail order.

(e). While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) when the court attests the bond thinks appropriate or considers the accused as a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

13. The petitioner shall not influence, browbeat, pressurize, or make any inducement, threat, or promise, directly or indirectly, to the witnesses, the Police officials, or any other person acquainted with the facts and the circumstances of the case, to dissuade them from disclosing such facts to the Police, or the Court, or to tamper with the evidence.

14. Petitioner to comply with their undertaking made in the bail petition, made before this court through counsel as reflected at the beginning of this order. If the petitioner fails to comply with any of such undertakings, then on this ground alone, the bail might be canceled, and the victim/complainant may file any such application for the cancellation of bail, and the State shall file the said application.

15. The bail bonds shall remain in force throughout the trial and after that in Section 437-A of the Cr.P.C. if not canceled due to non-appearance or breach of conditions.

16. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

17. *There would be no need for a certified copy of this order 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 the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

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

(ANOOP CHITKARA)
JUDGE

30.07.2024
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Whether speaking/reasoned: Yes
Whether reportable: **No.**