

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.31427 of 2024
Reserved on: 13.08.2024
Pronounced on: 30.08.2024

Jaswinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Bipan Ghai, Senior Advocate with
Mr. Nikhil Ghai, Advocate and
Mr. P.S. Bindra, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
22	27.05.2024	Vigilance Bureau, Patiala Range, District Patiala	7(A), 7 of Prevention of Corruption Act and 120-B IPC

- The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
- In paragraph 21 of the bail petition, the accused declares that he has no criminal antecedents
- Facts of the case are being taken from reply dated 12.07.2024 which reads as under:

“3. That the brief facts of the case are that the above noted case has been registered at P.S. Vigilance Bureau, Patiala Range, District Patiala on the statement of Shera Singh @ Guddu son of Sarup Singh r/o village Deogarh Tehsil Patran District Patiala against Karnail Singh Ex-Panchayat Member village Deogarh Tehsil Patran District Patiala on the allegation that the complainant is resident of the given address and doing the work as mason. About 2 months ago, the complainant was not present at his residence and C.I.A Samana had conducted the raid. The petitioner -SI Jaswinder Singh had told his wife Gurmeet Kaur that case FIR No.18/2024 under N.D.P.S act has been registered in Police Station Ghagga against her husband Shera Singh @ Guddu, in which her husband was to be arrested. At this, the complainant informed Ex. Sarpanch Bhola Singh of the village in

this regard, where reached at the spot and talked to SI Jaswinder Singh, who told that Shera Singh was not at home at that time and he shall be produced in the Police Station. Then wife of the complainant told him entire episode and due to fear of arrest by the police, the complainant went to his in-laws' village Khudal Kalan, Tehsil Bareta District Manse. During this period, the complainant filed his bail application in learned lower court, which was dismissed by learned Court. Thereafter, the complainant filed bail application before the Hon'ble Punjab and Haryana High Court, Chandigarh which was dismissed on 01.05.2024. Thereafter the complainant contacted Karnail Singh Ex. Panchayat Member village Deogarh through Ex. Sarpanch Bhola Singh, who told that the complainant he would help him in the case by talking to C.I.A Samana Incharge SI Manpreet Singh A and ASI Pargat Singh, if the complainant would make arrangement of their expenses. The complainant gave false consent. Then Karnail Singh Ex.-Panchayat member contacted the complainant and told him through telephone that he had talked to Incharge SI Manpreet Singh and ASI Pargat Singh for helping the complainant and Incharge SI Manpreet Singh and ASI Pargat Singh have demanded Rs. 2 lacs for helping the complainant. In this regard, the complainant had made recording in his phone regarding the said demand. Then the complainant contacted Karnail Singh Panchayat member and told him that the complainant was unable to arrange Rs.2 Lacs and the complainant told them that he could arrange Rs. 1,40,000/- for the time being, Whereupon he said that for paying remaining amount, they would sought time but the said amount would be taken by said officials through him only. The complainant did not want to get his work done by giving bribe. Therefore, the complainant produced currency notes of Rs. 1,40,000/- demanded as bribe by Karnail Singh Ex. Panchayat Member of village Deogarh and memory card of the recording made regarding above said demand before the inquiry officer and requested to take legal action against Karnail Singh Ex. Panchayat Member. The Deputy Superintendent of Police, Vigilance Bureau, Patiala Range, Patiala recorded the above statement of the complainant, on the basis of which above noted case has been registered at Police Station Vigilance Bureau, Patiala Range, Patiala.

4. That after recording the statement. of the complainant against Karnail Singh Ex. Panchayat Member village Deogarh by the I.O., ASI Pargat Singh and Incharge SI Manpreet Singh C.L.A, Samana, the I.O. made inquiries from secret sources also regarding allegations leveled in complaint and after hearing the audio recording, the truth has been found in allegations leveled. The complainant produced 280 currency notes of denomination of Rs.500/- each before the I.O, which were applied phenolphthalein powder and after satisfying that no other money paisa etc. was with complainant, same were handed over back to complainant and he was instructed that when any one out of Karnail Singh Panchayat Member village Deogarh, ASI Pargat Singh and Incharge SI Manpreet Singh C.I.A demands bribe, then he should hand over those powder laced currency notes to him and not to shake hand with him. Memo regarding producing and handing over the currency notes was prepared.

5. That thereafter making plan Ran Singh, Health Supervisor office of Civil Surgeon Patiala was appointed shadow witness along with complainant and directed that he would accompany the complainant- Shera Singh @ Guddu aforesaid to Karnail Singh Ex. Panchayat Member village Deogarh, ASI Pargat Singh and Incharge SI Manpreet Singh, C.I.A. Samana to fixed place ie., Ambedkar Chowk Samana and would see and hear the conversation between them regarding transaction of bribe and when any person out of above said would take bribe amount from complainant Shera Singh @ Guddu, then on getting an opportunity, he would give a signal to raiding party standing outside by putting his right hand on his head and the raiding party would be waiting for his signal while standing scattered near the above said Chowk and reached at the spot, where the

accused-Karnail Singh was already waiting and the complainant handed Rs. 1,40,000/- to him and the shadow witness gave signal to the raiding police party. At this the accused -Karnail Singh was apprehended by the I.O. and the bribe money was recovered from him. Recovery of currency notes was prepared at the spot. Motor cycle of the accused-Karnail Singh was taken into police possession and writing work was completed by the I.O. at the spot and supplementary statement of the complainant was recorded.

6. That the complainant also produced the transcript dated 27-05-2024 recorded by the complainant regarding conversation took place between the complainant and accused-Karnail Singh Ex-Member Panchayat before the police, which is attached herewith as Annexure R-1, wherein the conversation regarding making payment of Rs.4,70,000/- to the petitioner has been recorded."

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.

6. It would be appropriate to extract paras 9 & 10 of the reply, which read as follows:

"9. That the petitioner had received bribe money of Rs.4,70,000/- from the complainant Shera Singh @ Guddu being I.O. for not arresting him and to help him for getting bail in case FIR No. 18/2024 registered Police Station Ghagga, District Patiala under NDPS Act. This fact has been further supported by the transcript dated 27-05- 2024(Annexure R-1), recorded by the complainant regarding conversation took place between the complainant and accused-Karnail Singh Ex-Member Panchayat produced before the police, wherein the conversation regarding making payment of Rs.4,70,000/- to the petitioner has been recorded. In the disclosure statement (Annexure R-2) also the accused-Karnail Singh admitted the fact regarding paying Rs.4,70,000/- to the petitioner. Further Gurtej Singh s/o Jangir Singh r/o village Khudal Kalan District Mansa in his statement dated 21-06-2024 (Annexure R-3) that this amount was paid in his presence to the petitioner. This amount was borrowed by the complainant his sister Gurmit Kaur w/o Toni r/o Jansoi District Ambala from her the complainant borrowed said amount (Annexure R-4). The mobile phone of the petitioner is still to be recovered, which is still in his custody of the petitioner and it is to be verified which mobile phone was running at that time with the petitioner and who were in contact with the petitioner, so custodial interrogation of the petitioner is required by the Vigilance Department. The investigation of the case is still in progress.

10. That Rs.4,70,000/- are still to be recovered from the petitioner, therefore, the custodial interrogation of the petitioner is required."

7. The complainant alleged that the petitioner Jaswinder Singh had demanded bribe from his wife Gurmeet Kaur but there is nothing in the reply about any evidence that Gurmeet Kaur had paid any bribe to the petitioner. Regarding earlier receipt of bribe, it would not be a case to deny anticipatory bail.

8. Given 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 Ilqa 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
Sonia Puri

Whether speaking/reasoned:	Yes
Whether reportable:	No.