

CRM-M-33298-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33298-2024
Reserved on: 02.09.2024
Pronounced on: 13.09.2024

Smt. Meenakshi Dahiya ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vinod Ghai, Sr. Advocate with
Mr. Arnav Ghai, Advocate and
Mr. Sumit Chahal, Advocate for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0004	29.05.2024	ACB, Panchkula, District Anti Corruption Bureau, Haryana	384 IPC and Sections 13(2), 13(1)(b), 7 & 8 of Prevention of Corruption Act

1. A woman, who belongs to the cadre of Haryana Civil Services, apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 24 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the copy of the FIR, annexed to the petition, which reads as follows:

“To, Subject: To take action against the officer/official who demanding bribe in lieu of government work. Sir, it is requested that I Rajan Khoda son of Sh. Krishan Kumar, am resident of H. No. 1255-F, Sector-11, Panchkula District Panchkula and I am retired as District Fishery Officer from the Department of Fishery. On 29.05.2022, the department had issued me charge sheet under some false allegations so that my junior officer Sh. Kashmir Singh, District Fishery Officer, Sonipat could be promoted to the post of Deputy Director, Department of Fishery, Haryana. In this regard the recommendation for the promotion of Sh.

CRM-M-33298-2024

Kashmir Singh District Fishery Officer, Sonipat was made in the meeting of Departmental Promotion Committee held in the month of January, 2024 and the file was sent for approval to the Hon'ble Chief Minister, Haryana but prior to the approval on the file regarding promotion of Sh. Kashmir Singh District Fishery Officer, Sonipat, the charge sheet against me has been dropped by the Hon'ble Minister, Department of Fishery, Haryana, due to which the promotion of above said Sh. Kashmir Singh District Fishery Officer, Sonipat has to be stopped by the department. In fact, the government has appointed inquiry officer and the departmental inquiry against me was conducted, in which the inquiry officer had declared me innocent and thereafter the department had sent file to the Additional Chief Secretary, Department of Fishery, Haryana to drop the charge sheet against me, who accepted the inquiry report and sent the file to Hon'ble Minister, Department of Fishery, Haryana for approval and the Hon'ble Minister has given approval for the same and the file was marked down to the Additional Chief Secretary for issuance of order in this regard, where Smt. Meenakshi Dahiya, Senior HCS, Joint Secretary has firstly called me in her office at Panchkula on 17.04.2024 through Joginder Singh her senior Scale Stenographer for issuance of order and demanded the amount of Rs. 1.00 lac as bribe from me and thereafter on very same day when I came back at Panchkula then Joginder Singh has told me by making WhatsApp call on my mobile and sending mobile number of the Madam that I have talked to Madam, you make her WhatsApp call on her mobile, your work will be done, madam got agreed for it. Thereafter I made WhatsApp call from my mobile No. 9478719183 to mobile No. 7496969999 of Madam, who told me that I had talked to Joginder, your order will be issued today and I had received my order on that day. Due to which on 19.04.2024 at around 02.55 PM, I went to the office of Madam to say her thanks and Madam told me that you have talked to Joginder about the amount of Rs. 1.00 lac and Joginder has also informed me that you were absent during last 16 months due to illness, due to which, your salary has not been released so far and you are facing difficulties in arranging the amount. Therefore, I am telling you that after making arrangements of money, you make me WhatsApp call and give money to me. I have been harassed by the Department by issuance of charge sheet against me under false conspiracy in the department so that my junior Sh. Kashmir Singh, District Fishery Officer, Sonipat could be promoted to the post of Deputy Director, Department of Fishery, Haryana in illegal manner. Therefore, I made the arrangements of recording device and have recorded the entire conversation held regarding demand of bribe in this

CRM-M-33298-2024

matter and later on I will present the same before you. Apart from it on 19.05.2024 at around 12.13 noon I received WhatsApp call of Madam and she told me that we will meet in next 1-2 days, you arrange the amount, I will inform you that when and where we will meet. Thereafter on 22.05.2024, the retirement party of Sh. Shrikant Walagd, ACS of our Department was held in Pallavi Hotel, Sector -5, Panchkula. I and Madam have also joined the said party and after finishing of party, Madam called me in the parking and told me that someone has made complaint to the Vigilance and given the name of you and me to the Vigilance, therefore you hold the said payment and therefore now I am giving you the name and mobile number of a person written on the slip, you give the amount of Rs. 1.00 lac to said person by calling him but prior to calling him, you inform me about it by making WhatsApp call that send said person to me and thereafter I will ask to said person that he will come, where you will call him. Thereafter Madam has given the name and mobile number written on a slip and as per slip the name of said person is Satender and his mobile number is 7500849601. I don't want to give bribe to madam in lieu of my government work done by her and I want to get the said corrupt officer caught red handed. Therefore, after arresting the said corrupt officer through Satender Singh above said, strict legal action be taken. (Encl. slip given by the Madam).

Sd/- Rajan Khoda son of Sh. Krishan Kumar, resident of H. No. 1255-F, Sector-11, Panchkula mobile No. 9478719183.

Police proceedings: today myself Deputy Superintendent of Police present in my office then Sh. Rajan Khoda came present and submitted the above said complaint against Smt. Meenakshi Dahia, Senior HCS and Senior Scale Stenographer Sh. Joginder Singh for demanding bribe from him. As per the contents of complaint, offence under section 7,8,13(1) B r/w 13(2) of Corruption Act, 1988 and section 384 of IPC is made out, therefore after writing Ruqa, the same is being sent to the Station House Officer, Police Station Anti-corruption Bureau, Sector 17, Panchkula by the hand of E/ASI Rishipal No. 453/Panchkula for registration of case, after register case, number of the same be intimated and copy of case file along with original Ruga be sent to me and the special reports of the case be sent to the Ilaqa Magistrate and senior officers. As per the order of Superintendent of Police, Anti-corruption Bureau, Panchkula with regard to the said complaint, Sh. Bhagat Singh, District Child Welfare Officer, Sector-14, Panchkula is appointed as Gazetted officer/ independent witness, Sh. Chandershekhar, Driver office of District child Welfare Officer, Sector -14, Panchkula as shadow witness and I have prepared the

CRM-M-33298-2024

raiding party of Inspector Subhash Chander, Inspector Dharamvir Singh, Inspector Ramesh Kumar Sub Inspector Shyam Lal No. 123/Panchkula, ASI Jaibir Singh No. 1868/Faridabad, ASI Narender Kumar No. 11/Panchkula, ASI Rajinder Kumar No. 34/Panchkula, HC Parvesh Kumari No. 08/Panchkula, HC Poonam Kumari No. 866/Panchkula and government Bolero car bearing registration No. HR03- GV-59358 colour white, its driver EHC Ramdyal No.378/Panchkula along with a private car. Now I along with raiding party, complainant, Gazetted Officer/independent witness, shadow witness, investigating kit, investigating material, laptop and printer going for raid. Today in head office, Anti-Corruption Bureau, Sector 23, Panchkula, Haryana.”

4. Mr. Vinod Ghai, Ld. Sr. Advocate made the following submissions:

“That as is apparent from the dates mentioned above, the file was received in the office of the petitioner only on 09.04.2024 and she was on leave from 10.04.2024 to 14.04.2024. She joined office on 15.04.2024 and file of the complainant was cleared by her on 16.04.2024, orders conveyed to the complainant and even orders also issued on the same. Therefore, this does not seem to be probable that any demand would be made on 17.04.2024. Therefore, the complainant change his case and stated that in fact the demand was made on 16.04.2024 and he had also a talk with the petitioner on 16.04.2024. (Transcript at Pg. 10 of reply) (there is no demand). Thereafter, his case is that he had met the petitioner on 19.04.2024 at 2:55 pm. It is highly improbable that the demand would be made after the work has been done and the complainant would be ready to pay even thereafter. (Transcript at Pg. 10). Even in this, there is no demand by the petitioner, rather she was talking about the undertaking. It is the complainant who deliberately was mentioned about Rs. 1 lac, Thereafter, the case of the complainant is that he met the petitioner at a party on 22.05.2024, wherein the petitioner told about the vigilance complaint and gave him a slip of name of Satinder and his mobile number. It may be pointed out that petitioner was on child care leave from 06.05.2024 to 14.06.2024 (Pg. 36 P-6) and it is also not believable that once she was aware about vigilance complaint even then she would accept the illegal gratification, if any. The FIR has been got registered on 29.05.2024 after about 40 days delay and it is the case of complainant that Satinder was arrested along with bribe money of Rs. 1 lac. The prosecution has tried to connect said Satinder with the petitioner by alleging that the scooty on which he came belong to the petitioner and also that in the customer form of mobile of Satinder alternate mobile

number and address of the petitioner has been given. The prosecution has also attached Transcript of conversation between Satinder and complainant. It may be pointed out that said Satinder is not working as cook with the petitioner and was employed with department. Further, in about 4 years earlier, he worked with the petitioner and the alternate number was given. Even otherwise, this cannot be said to be a proof that he was sent by the petitioner or he had received the said illegal gratification on behalf of the petitioner. In the entire conversation, Satinder has been talking about a file. Therefore, it might be that he had gone there to pick a file, wherein he was trapped with dishonest intention by the complainant. In the reply, in para 6 pg. 5 that the petitioner was only an intermediary and was not in a position to either change or review any direction issued by the higher authority. Further, it is alleged that petitioner kept the file till 16.04.2024 although received in the office on 08.04.2024. This has already been explained in the above paragraphs. The state in his reply has also stated that custody of the petitioner is needed because of recovery of mobile, his voice sample and handwriting had to be taken. The petitioner was on interim protection and he handed over the sim card. He joined investigation on 01.08.2024 and thereafter, gave her handwriting sample at FSL Madhuban on 05.08.2024. She had even handed over the sim card on 12.08.2024. In the reply, the state has also alleged that the petitioner is a senior officer and thus may temper with the evidence and intimidated the complainant as well as co-accused, employees and witnesses. It may be pointed out that the complainant has retired and the court may imposed any condition and she undertakes not to try to influence anybody. As far as, the transcript on which the prosecution is lying upon is concerned, they are still to be proved as per law and therefore, at this stage cannot be said to be carrying any legal value.”

5. 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.

6. The State's counsel opposes bail and refers to the reply.

7. It would be appropriate to refer to the following portions of the preliminary submissions made in the reply, which read as follows:

“2. That on 16.04.2024 accused Stenographer Sh. Joginder Singh called the Complainant Officer in his office by making a WhatsApp call with the malafied intention and bribe money of Rs. 1,00,000/- was settled and demanded by Sh. Joginder Singh in the name of Smt. Meenakshi Dahiya, HCS in a face to face conversation which was recorded by the

complainant officer and is available on the investigation file.

3. That after the settlement of bribe money of Rs. 1,00,000/- the mobile number 7496969999 of the petitioner Smt. Meenakshi Dahiya was shared on the same day /by the said accused Stenographer with the complainant officer on his WhatsApp instructing him to talk to the petitioner through WhatsApp. On the instructions of the said Stenographer of the petitioner, complainant made a WhatsApp call to the petitioner and recorded the same wherein the petitioner assured the complainant of issuing his order for dropping the charge-sheet against him. The same recording has been converted into transcription copy of which is annexed as annexure R-1.

4. That the demand of bribe money of Rs. 1,00,000/- was made by the accused petitioner through her accused stenographer on 16-04-2024 in a face to face conversation which was recorded by the complainant and the same has been converted in to transcription copy of which is annexed as Annexure R-2.

5. That on 22.05.2024, during the pre-retirement party of Sh. Shrikant Walgad, IAS, ACS, Fisheries Department, organized at Pallavi Hotel, Sector 5. Panchkula, the petitioner Smt. Meenakshi Dahiya handed over handwritten paper slip to the complainant officer bearing the name and mobile number 7500848901 of her cook/accused Satender Singh for receiving the bribe money of Rs. 1,00,000/- copy of which is annexed as Annexure R-3.

6. That on 29.05.2024 said cook was instructed by the petitioner to call the complainant officer through a WhatsApp call for handing over to him the settled bribe money near Color Saloon, Sector 5, MDC Panchkula and this call was recorded by the complainant and the same is converted into transcription copy of which is annexed as Annexure R-4. On the instructions of the petitioner this accused cook reached on the spot for receiving the bribery where he was arrested red handed from the spot and the bribe money of Rs. 1,00,000/- and a Honda Aviator Scooty CH01AG-4843 used in the crime was recovered from him.

7. That during the interrogation the arrested cook disclosed that this Scooty was given to him by the petitioner herself for receiving the bribe money of Rs. 1,00,000/-

8. That on 06.06.2024 the Record of said Honda Aviator Scooty CH01AG-4843 used in crime was received from Transport Authority of Chandigarh which establishes that the same is registered in the name of the petitioner herself. copy of which is annexed as Annexure R-5.

9. That after the Complainant talked to accused petitioner on the instructions of co- accused stenographer, the order of dropping the chargesheet was issued on the same day i.e 16-04-2024 and the same was shared by the accused petitioner on WhatsApp of the complainant followed by writing "Done" and simultaneously, the same order was shared with complainant by her co accused Senior Scale Stenographer, Shri Joginder Singh, and screen shots of the chats are annexed as R-6.

10. That the Result Report dated 10.07.2024 has been received from the FSL wherein Phenolphthalein and Sodium Carbonate have been detected on recovered currency notes and Hand Wash Solutions of both the accused and the complainant officer.

11. That during the investigation, having on record sufficient evidence against him, the said Stenographer of the petitioner was arrested on 29.05.2024 who disclosed during the interrogation that he settled and

CRM-M-33298-2024

demanded the bribe money of Rs. 1,00,000/- on the instructions of the petitioner in lieu of issuing the order of dropping the charge-sheet against the complainant.”

8. There is prima facie evidence connecting the petitioner with the recovery of Rs. 1,00,000/- of bribe money from the petitioner’s cook, Satinder, who was arrested red-handed on 29th May 2024. The police recovered the bribe money from him. The calls and transcripts indicate the petitioner’s involvement, which is corroborated by the complainant’s complaint.

9. Ld. Additional Sessions Judge, while dismissing the petitioner’s anticipatory bail, has also considered all aspects of the matter and reasoned that the petitioner’s custodial interrogation is required to recover the mobile phones used in the crime.

10. A perusal of the bail petition and the documents attached prima facie points towards the petitioner’s involvement and does not make out a case for bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

11. In *Sumitha Pradeep v Arun Kumar CK*, 2022 SCC OnLine SC 1529, Supreme Court holds,

[16]. ... We have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

12. In *State of Gujarat v. Mohanlal Jitmalji Porwal* (1987) 2 SCC 364, Supreme Court holds,

[5].The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a

CRM-M-33298-2024

permissive eye unmindful of the damage done to the national economy and national interest....."

13. In State rep. by CBI v. Anil Sharma, (1997) 7 SCC 187, Supreme Court holds,

[6]. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.

14. In Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379, Supreme Court holds,

[19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. [See D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434, State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213 and Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305].

15. In Y.S. Jagan Mohan Reddy v. CBI (2013) 7 SCC 439, Supreme Court holds,

[34]. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

[35]. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.

16. In P. Chidambaram v. Directorate of Enforcement, 2019 9 SCC 24, Supreme Court holds,

[70]. We are conscious of the fact that the legislative intent behind the introduction of Section 438 Cr.P.C., 1973 is to safeguard the individual's personal liberty and to protect him from the possibility of being humiliated and from being subjected to unnecessary police

custody. However, the court must also keep in view that a criminal offence is not just an offence against an individual, rather the larger societal interest is at stake. Therefore, a delicate balance is required to be established between the two rights - safeguarding the personal liberty of an individual and the societal interest. It cannot be said that refusal to grant anticipatory bail would amount to denial of the rights conferred upon the appellant under Article 21 of the Constitution of India.

17. In Central Bureau of Investigation v. Santosh Karnani, Cr.A 1148 of 2023, dated 17-04- 2023, Supreme Court, in an FIR registered under sections under Sections 7, 13(1) and 13(2) of the Prevention of Corruption Act, 1988, holds,

[24]. The time-tested principles are that no straitjacket formula can be applied for grant or refusal of anticipatory bail. The judicial discretion of the Court shall be guided by various relevant factors and largely it will depend upon the facts and circumstances of each case. The Court must draw a delicate balance between liberty of an individual as guaranteed under Article 21 of the Constitution and the need for a fair and free investigation, which must be taken to its logical conclusion. Arrest has devastating and irreversible social stigma, humiliation, insult, mental pain and other fearful consequences. Regardless thereto, when the Court, on consideration of material information gathered by the Investigating Agency, is prima facie satisfied that there is something more than a mere needle of suspicion against the accused, it cannot jeopardise the investigation, more so when the allegations are grave in nature.

[31]. The nature and gravity of the alleged offence should have been kept in mind by the High Court. Corruption poses a serious threat to our society and must be dealt with iron hands. It not only leads to abysmal loss to the public exchequer but also tramples good governance. The common man stands deprived of the benefits percolating under social welfare schemes and is the worst hit. It is aptly said, “Corruption is a tree whose branches are of an unmeasurable length; they spread everywhere; and the dew that drops from thence, Hath infected some chairs and stools of authority.” Hence, the need to be extra conscious.

18. In the background of the allegations and the light of the judicial precedents mentioned above in the facts and circumstances peculiar to this case, the petitioner fails to make a case for anticipatory bail.

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

20. **Petition dismissed.** Interim orders are recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

13.09.2024

anju rani

Whether speaking/reasoned: Yes

Whether reportable: NO.