

CRM-M-33654-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33654-2024
Reserved on: 03.09.2024
Pronounced on: 13.09.2024

Hari Kishan ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Aman Bansal, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0016	25.05.2023	ACB, Hisar	384, 120-B IPC and 7 of PC Act (Section13(1)(b), 13(2) of PC Act added later on)

1. The petitioner 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. Petitioner is silent about criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“That the brief facts of the case are that complainant Jai Bhagwan made a complaint on Toll free number of Corruption Department, upon which Sharif Singh, DSP, ACB, PKL came PWD Rest House, Hisar where complainant Jai Bhagwan moved a written complaint to him, alleging therein that he is doing private job and his wife Birmati working in DCM, Thread Mill, Hisar since 2021 and her PF/ESI has been deducted regularly and he came to know that there is a scheme for ESI women employees for delivery of child. On 08.10.2022, his wife gave birth to a girl child and to take the advantage of ESI Scheme he moved application before Branch Manager, ESI, Department, Hisar and in that office co-accused Krishan, who was posted as Clerk, met him and told that they will

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transfer the amount in the account of his wife, if he will pay a sum of Rs. 10,000/- as bribe. Complainant further alleged that at that time he accepted the demand of accused under pressure and on 12.05.2023, an amount of Rs. 82,000/- was deposited in the account of his wife under the abovesaid scheme of government and thereafter co-accused Krishan called him several times on his mobile number 7027370040 from different numbers and demanded bribe money and also told that they will accommodate him in future as well. Complainant further alleged that he does not want to give bribe money of Rs. 10,000/- to the accused and requested that legal action be taken against him. As such on the basis of the version of complainant, a case FIR No. 16 dated 25.05.2023 u/s 7 PC Act PS, ACB, Hisar registered against the petitioner.”

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's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“EVIDENCE AGAINST THE PETITIONER

3. That thereafter, a raiding party was constituted which was headed by Sharif Singh, DSP, ACB, PKL, and after doing the pre raid formal proceedings, a successful raid was conducted on accused Krishan and tainted bribe money of Rs. 4,000/- was recovered from right side pocket of his Grey pant in presence of independent witnesses, Duty Magistrate Devraj Gupta, Account Officer O/o Municipal Committee, Hisar and Pankaj Kumar, Assistant office of Municipal Committee, Hisar and at that time co-accused Krishan asked the complainant to give bribe money of Rs.6,000/- to petitioner/accused Harikishan, but the petitioner/accused was not found in his office, so that complainant could not give the said bribe amount to petitioner/accused.”

7. There is no evidence of acceptance of a bribe by the petitioner.

8. There is sufficient prima facie evidence of the demand of a bribe connecting the petitioner with the alleged offense, but in the absence of evidence of acceptance of the bribe, it is neither a case for custodial interrogation nor pre-trial incarceration. Although the evidence might be prima facie sufficient to launch prosecution or to frame charges, this Court is not considering the evidence at that stage but is analyzing the same for the bail stage.

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9. 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. 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.

10. 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.

11. 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)	

12. This order is subject to the petitioner's complying with the following terms.

13. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

14. 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.

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

16. 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

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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.

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

(ANOOP CHITKARA)
JUDGE

13.09.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.