



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

206

CRM-M-35457-2024

Date of decision: 17.12.2024

Jatinder Kumar Bablu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. Navdeep Singh, DAG, Punjab.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') in case FIR No.26 dated 27.06.2024 under Section 7-A of the Prevention of Corruption Act, 1988 (Amendment) Act, 2018, registered at Police Station Vigilance Bureau, District Patiala.

2. Learned counsel for the petitioner submits that in compliance of order dated 01.10.2024, which was passed after noticing the following submissions, the petitioner has joined investigation and cooperated with the investigating agency, and hence, it be made absolute:-

“Learned counsel for the petitioner submits that the allegations in the FIR (Annexure P-1), primarily concern two plots, i.e. plot No.5 and plot No.7, owned by the complainant and his family. It has been pointed out that although the FIR was registered under the Prevention of Corruption Act, 1988, no public servant, including any official from the Municipal Corporation, has been named as an accused. Instead, the FIR targets only the petitioner,



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who is not a public servant but a private contractor. Further, the petitioner was, in fact hired by the complainant himself as a contractor for plot No.7, a fact that the complainant deliberately concealed when filing the FIR in question, for reasons but obvious.

Furthermore, learned counsel submits that a civil suit had already been filed by one of the neighbours of the complainant, one Dr.Dinesh Ahluwalia, wherein the complainant was restrained from carrying out further construction on the plot. Learned counsel has argued that this civil suit was instituted before the FIR in question was registered. Hence, given this context, the petitioner had no occasion to demand bribe, to approve the site plans when the construction had already commenced, as was evident on a perusal of the contents of the FIR, and the civil suit filed by the neighbour of the complainant.”

3. Learned State counsel has, however, on instructions has stated to the contrary and asserted that although the petitioner did join investigation but he has failed to cooperate meaningfully with the investigation. It has been further alleged by the learned State counsel, on instructions, that the petitioner has not disclosed the names of his accomplices who were purportedly involved in the demand and receipt of bribe money, nor has he facilitated the recovery of the bribe amount allegedly received by him from the complainant. It has been, therefore, contended by the learned State counsel that such non-cooperation by the petitioner amounts to a breach of conditions of interim protection granted vide order dated 01.10.2024 and hence, the present petition be dismissed as his custodial interrogation would be required.

4. Learned counsel for the petitioner, while refuting the instructions received by the learned State counsel, has reiterated that the petitioner has fully complied with the order dated 01.10.2024 by joining investigation and cooperating with the investigating agency. It



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is further contended that the instructions received by the learned State counsel of non-cooperation are baseless and unfounded. Rather, the investigating agency is trying to exert pressure on the petitioner to provide self-incriminatory statements, which is impermissible under the law. Reliance has been placed on ***Hemant Kumar Vs. State of Haryana (SLP(Crl.) No.232/2024) decided on 06.03.2024 and Bijender Vs. State of Haryana (SLP(Crl.) No.1079/2024) decided on 06.03.2024*** wherein Hon'ble the Supreme Court granted the concession of anticipatory bail despite alleged 'non-cooperation' by the accused.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. The primary issue for determination is whether the petitioner's alleged failure to disclose information about his alleged accomplices, and the recovery of bribe money constitutes 'non-cooperation' justifying the denial of anticipatory bail.

7. The term 'non-cooperation in investigation' must be interpreted with precision and care. Cooperation with the investigating agency involves : (i) accused attending and participating in the investigation as directed; (ii) providing truthful and relevant information; and (iii) assisting in uncovering facts or evidence within their personal knowledge or possession.

8. However, this obligation does not extend to : (a) compelling the accused to admit to the commission of an offence; (b) extracting self-incriminatory information; or (c) using coercion to secure statements or confessions.



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9. Article 20(3) of the Constitution of India unequivocally protects an individual from being compelled to incriminate themselves. Any investigative process that undermines this fundamental right cannot be construed as lawful cooperation.

10. The investigating agency retains the authority to employ independent and lawful methods to trace accomplices and recover incriminating material. The inability or unwillingness of the petitioner to provide such information does not necessarily amount to non-cooperation.

11. Insistence by the State on custodial interrogation solely to compel the petitioner to incriminate himself runs afoul of constitutional safeguards. Such an approach would not only violate Article 20(3) of the Constitution of India but also set a dangerous precedent, undermining the balance between investigative needs and individual rights.

12. Merely because the petitioner has not facilitated the recovery of the alleged bribe money or disclosed the names of his alleged accomplices cannot, in isolation, be regarded as a failure to cooperate with the investigation. The investigating agency instead must rely on lawful means to gather evidence rather than coercing the petitioner to act against his constitutional protections.

13. As a sequel to the above, this Court finds no justification not to make the interim order dated 01.10.2024 absolute. Accordingly, the present petition is allowed and interim order dated 01.10.2024, is made absolute subject to the conditions laid down in Section 482(2) of



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the BNSS.

14. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

17.12.2024

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**(MANJARI NEHRU KAUL)
JUDGE**

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