

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.38766 of 2024
Reserved on: 06.09.2024
Pronounced on: 20.09.2024

Gajju Ram ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr. Sukhdev Singh, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
29	15.07.2024	Vigilance Bureau Patiala, District Patiala	308(2), 61(2) of BNS, 2023 (Section 380, 120-B IPC) and Section 3 of Prevention to Damage to Property Act, 1984

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. In paragraph 12 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

2. That pursuant to the order by Hon'ble Court, it is submitted that the brief facts are as following:-

The FIR No.29 Dated 15.07.2024 U/s 7A PC Act 1988 as amended by PC (Amendment) Act 2018 and 308(2), 61(2) The Bharatiya Nyaya Sanhita was registered at Vigilance Bureau Patiala Range Patiala on Statement of Mahinder Singh Process server (Piyada). He Stated in his statement that, I am appointed as a Process server (Piyada) in the court of Hon'ble Gurveer Singh, Civil Judge (Senior Division), Barnala. During April 2024, a complaint No. 152718 was lodged against me on the Anti-Corruption Action Line by Praveen Kumar, son of Jaipal, resident of Mohalla Kalala, Ward No. 05, Bhadaur, Tehsil Tapa, District Barnala. This complaint was received by the Vigilance Bureau, Unit, Barnala for investigation, and I recorded my statement regarding the same at the office of the Vigilance Bureau, Barnala.

After the investigation, the complaint was forwarded by the Vigilance Bureau, Punjab to the Hon'ble Sessions Judge, Barnala, for further action, who marked it to the Hon'ble Gurveer Singh, Civil Judge (Senior Division), Barnala. In relation to this investigation, a notice was issued by the Hon'ble Civil Judge (Senior Division), Barnala, summoning the said Praveen Kumar. In connection with this, yesterday, on 14.07.2024, in the evening, Gajju Ram, son of Joginder Ram, resident of Bhadalwad, District Barnala, called me on my mobile No. 90569-56814 from his mobile No. 98761-42888, stating that Praveen Kumar, who lodged the complaint against you, wants to meet you. He asked me to come to Kala Mehar Stadium the next morning. Accordingly, I went to Kala Mehar Stadium, Barnala this morning. where I met Praveen Kumar and Gajju Ram. Praveen Kumar told me that he had been summoned by the Civil Judge, Barnala, in connection with the complaint today. He said that if he records his statement against me before the judge today, action would be taken against me. He further mentioned that he has direct communication with the Civil Judge, Barnala, and if I wanted to defend myself, I should pay him ₹2,50,000 today. I pleaded with Praveen Kumar to reduce the amount, but he did not agree and insisted on the full amount of ₹2,50,000. Therefore, on 15.07.2024, I submitted a written application at the office of the Vigilance Bureau, Barnala, regarding Praveen Kumar's demand for a bribe in exchange for settling the complaint against me. In response, you (Vigilance Bureau) sent an employee with a voice recorder to accompany me to meet Praveen Kumar. During this time, I had a conversation from my mobile Number with Gajju Ram on his mobile Number, where Gajju Ram asked me to come to Kachehri Chowk, Barnala. The employee sent by you started the voice recorder and placed it in the left pocket of my pants and sent me to Kachehri Chowk, Barnala. There, I met Gajju Ram, who took me on his motorcycle to near Kala Mehar Stadium, where Praveen Kumar was already present. Praveen Kumar reiterated his demand according to the previous discussion and mentioned that he had explained everything to Gajju Ram. Gajju Ram then said to bring ₹2,50,000 as agreed earlier, to which Praveen Kumar agreed. After the discussion, I returned and handed over the recorder to the employee sent by you, who took the recorder and switched it off. The demand made by Praveen Kumar and Gajju Ram was for 2,50,000, but I have managed to arrange 1,50,000, which I have brought. Hence, Vigilance Bureau Unit Barnala Caught Parveen Kumar red handed taking bribe of ₹1,50,000 and Case U/s 7A PC Act 1988 as amended by PC(Amendment) Act 2018 and 308(2), 61(2) The Bharatiya Nyaya Sanhita registered against Parveen Kumar and Gujju Ram.

It is Submitted that, in the course of the investigation, the accused, Parveen Kumar, allegedly destroyed certain Indian currency notes that were part of the bribe money. Consequently, the investigating officer amended the First Information Report (FIR) to include charges under Section 3 of the Prevention of Damage to Public Property Act, 1984. A special report detailing these developments was subsequently submitted to the Hon'ble Court at Barnala."

4. The petitioner's counsel submits that the alleged amount of bribe was recovered from the co-accused Parveen Kumar and the Petitioner had never demanded any illegal gratification from complainant Mohinder Singh Process Server, rather the complainant is accused for demanding Rs. 2000/- from co-accused Parveen Kumar for not serving the summons and thereafter the co-accused Parveen Kumar moved complaint against him. He further submits that the inquiry was going on against complainant Mohinder Singh Process Server so he requested the petitioner who is working as Typist in Civil Court Barnala and is known to both Mohinder Singh and Parveen Kumar to get the matter

amicably settled and it is the admitted case of the prosecution that the petitioner has not taken any amount of bribe from the complainant but was acting as the middleman for amicable settlement. He further submits that even no offence under section 7-A of P.C. Act is made out against the petitioner and he is ready to join the investigation and will cooperate with the investigating agency so his custodial interrogation is neither required nor justified.

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 reply, which read as follows:

"3. ROLE OF THE PETITIONER GUJJU RAM:

It is submitted that the petitioner, Gajju Ram, played a significant role in the conspiracy to demand a bribe of ₹2,50,000 from the aforesaid Mahinder Singh. Gajju Ram acted as a go-between, coordinating meetings and communicating the illegal demands made by Praveen Kumar. He pressurized the aforesaid Mahinder Singh to pay the bribe and assured that the matter would be settled in his favor if the payment was made. Gajju Ram's involvement was crucial in facilitating the attempted extortion, making him an active participant in this unlawful act. Therefore, his role requires careful investigation and legal action.

4. PETITIONER'S VESTED INTEREST PETITIONER GUJJU RAM:

It is submitted that, Conversation between aforesaid Accused Parveen kumar, Accused Gujju Ram and plaintiff mahinder Bamala Singh during demand of bribe was recorded and Transcribed which is attached as (Annexure R-1/T).

5. NEED FOR POLICE CUSTODY OF PETITIONER GUJJU RAM:

It is submitted that the conversation between the aforementioned accused, Parveen Kumar and Gujju Ram, and the plaintiff, Mahinder Singh, during the clear demand for the bribe of 22,50,000 was recorded and transcribed. The transcript of this conversation is attached herewith as (Annexure R-1/T)"

8. The allegations explicitly point towards the petitioner as an initiator of demanding a bribe to make a crucial witness resile from his earlier statement. There is a call recording to substantiate evidence. There is clear evidence of the petitioner's lead role in corrupting the criminal justice system.

9. 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.

10. In *Sumitha Pradeep v Arun Kumar CK*, 2022 SCC OnLine SC 1529, the 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.

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

11. 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.

12. 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 enroled 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].

13. 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.

14. 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.

15. 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.

16. 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.

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

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

(ANOOP CHITKARA)
JUDGE

20.09.2024
Sonia Puri

Whether speaking/reasoned: Yes
Whether reportable: No.