



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-40102-2023 (O&M)
Date of decision: 03.09.2024

Kulwinder Singh Shergill

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. A.P.S.Deol, Senior Advocate assisted by
Mr. Himmat Deol & Mr. Vishal R. Lamba, Advocates
for the petitioner.

Mr. Deepinder Singh Brar, Sr. D.A.G., Punjab
for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.07 dated 06.06.2022, under Sections 7, 7A, 13(1)(a) & (2) of the Prevention of Corruption Act, 1988 [as amended by Prevention of Corruption (Amendment) Act, 2018]; Section 120-B of the Indian Penal Code, 1860 (*for short 'IPC'*) [Sections 409, 420, 465, 467, 468, 471 IPC added later on), registered at Police Station Vigilance Bureau, Flying Squad 1, Punjab at Mohali, District SAS Nagar.

(2) Above FIR was registered by complainant-Harvinder Pal Singh, DSP, Vigilance Bureau, Unit SAS Nagar with the allegations that petitioner

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being the Personal Assistant to main accused-Sangat Singh Gilzian, the then Forest Minister, Punjab, took financial benefits & favours and was part of the racket.

(3) Learned Counsel contends that petitioner was granted interim bail by the Coordinate Bench, vide order dated 17.08.2023 and in pursuance thereof, he has already joined the investigation; hence, custodial interrogation of the petitioner is not required.

(4) Learned State Counsel also, after obtaining instructions from Inspector Gagandeep Kaur, acknowledged the above factual position and submits that as on today, custodial interrogation of the petitioner is not required.

(5) Heard learned Counsel for the parties and perused the paper-book.

(6) It transpires that petitioner was granted interim bail by the Coordinate Bench, vide order dated 17.08.2023 and the order reads as under:-

“Inter alia contends that in the present case, although, there are several allegations made against various co-accused but the only allegation levelled against the present petitioner who, as per the FIR is stated to be the Personal Assistant of Sangat Singh Gilzin, Ex-Forest Minister, is that an amount of Rs.5 lacs was demanded by the said Minister through Amit Chauhan which was handed over to the present petitioner. It is submitted that even as per the said allegation, neither any statement has been made by the petitioner nor any money has come into the account of the petitioner. It is further submitted that the FIR, in the present case, has been registered on 06.06.2022 on the statement of Harmohinder Singh @ Hummy

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(Contractor) while he was in custody in FIR No.6 dated 02.06.2022 under Sections 7, 7A, of Prevention of Corruption Act, 1988 as amended by PC (Amendment) Act, 2018 and under Section 120-B of IPC at Police Station Vigilance Bureau, Phase-1, Punjab at Mohali. It is contended that subsequently, the statement of said Harmohinder Singh @ Hummy was recorded on 13.06.2022 under Section 161 of Cr.P.C. and in the said statement, he has stated that Rs.5 lacs was given to Amit Chauhan and thus, he has contradicted his earlier statement made in the FIR with respect to the allegations made against the petitioner. It is further contended that in the statement recorded on 30.06.2022 under Section 164 of Cr.P.C, he has again stated that an amount of Rs.5 lacs was paid to Amit Chauhan, Divisional Forest Officer. It is argued that the said Harmohinder Singh @ Hummy has been made as an approver after tendering for pardon under Section 306(4) of IPC in FIR No.6 dated 02.06.2022 and even in his approver statement, there is nothing stated against the present petitioner. It is further argued that on account of the same, the police did not find any evidence against the present petitioner and thus, never proceeded against him. It is also submitted that even, the allegation of Rs.5 lacs as bribe for issuance of permit regarding Khair trees in Village Nada, District SAS Nagar, Mohali, on the basis of permit dated 25.11.2022 issued vide Notification dated 02.02.2018 under five years felling programme, has also been created by Harmohinder Singh @ Hummy himself and the same has no basis since the assessment in the allotment of the permit was not on the basis of the new Notification but was under the old Notification which was continuing with no change in the policy and the permit was issued in the name of Krishan Kumar, President, Nada Forest Development and Management Society, SAS Nagar and not in the name of Harmohinder Singh @ Hummy. It also contended that even as per the investigation done by the Vigilance department, it was Jaswinder Singh son of

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Bachan Singh, who was attached as the PA with Sangat Singh Gilzian, Ex-Forest Minister on the basis of order dated 26.09.2021 issued by the Principal Secretary and the petitioner was never even the PA of the said Ex-Minister and thus, roping the petitioner in the present case on the basis of the allegation that the petitioner was the Personal Assistant of the said Ex-Minister is also baseless. It is argued that the challan dated 06.08.2022 has been submitted under Section 173 of Cr.P.C. and even two supplementary challans have been submitted thereafter. It is also submitted that Sangat Singh Gilzian has been granted the concession of ad interim anticipatory bail by a Coordinate Bench of this Court vide order dated 18.07.2022 passed in CRM-M-30346-2022 and the said case is now listed for 28.09.2023. It is further contended that even Amit Chauhan has been granted the concession of interim bail by the Coordinate Bench of this Court vide order dated 15.05.2023 passed in CRM-M-10061-2022. It is additionally contended that the present petitioner is not involved in any other criminal case and was earlier preparing for the Civil Services Examination and is currently preparing for the Chartered Financial Analyst (CFA) Examination and the same has been noticed in para 2 of the order dated 20.06.2023 passed by the Special Court, SAS Nagar, rejecting the anticipatory bail of the petitioner.

Notice of motion for 28.09.2023.

Till the next date of hearing, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

To be heard along with CRM-M-30346-2022.

The grant of interim protection shall not be construed to be an opinion on merits of the case and would not create any

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equitable consideration in favour of the petitioner at the time of deciding the present petition on merits.”

(7) On previous date of hearing i.e. 27.08.2024, this Court passed the following order:-

“Learned State counsel, on instructions, acknowledged that although, all 05 petitioners have joined investigation in pursuance of the interim orders passed on respective dates, but he seeks time to have instructions as to whether custodial interrogation of any petitioner is required and if so, reasons for the same.

Posted for 03.09.2024.

Till the next date of hearing, interim order(s) in respective case(s) to continue.

Photocopy of this order be placed on the file(s) of the connected case(s).”

(8) As already noticed, it is acknowledged by learned State Counsel on instructions that in pursuance of the order dated 17.08.2023, petitioner has joined investigation and his custodial interrogation is not required.

(9) In view of the above, present petition is allowed; interim order dated 17.08.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

(10) It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

(11) The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.

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(12) It is clarified that in case there is recurrence on the part of the petitioner, State would be at liberty to move an appropriate application for recalling of this order.

Pending application(s), if any, shall also stand disposed off.

3rd September, 2024
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No