

CRM-M-40402-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40402-2024
Reserved on: 10.09.2024
Pronounced on: 27.09.2024

Joginder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ravinder Singh, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
16	24.06.2024	Vigilance Bureau, Bathinda District Bathinda	7 of PC (Amendment) Act 2018

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 9 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:

“3(i) The complainant Gurchand Singh son of Shri Pritam Singh resident of Ward No. 6 Village Ranghrial Tehsil Budhlada District Mansa in his statement had mentioned that, "Stated that I am a resident of the above-mentioned address and do agriculture work. I have four kanals and three marlas of land. I am in need of money for domestic necessities due to which I had to take a loan on my land. I had got partition of my share of the land with the shareholders Bhoor Singh alias Chattin Singh, son of Kartar Singh and Jaspreet Kaur, wife of Jagseer Singh alias Seera, residents of Ranghrial, about two months earlier. After the partition of my land, Joginder Singh, Patwari Revenue Halqa Datewas, after measuring the land, had demarcated my area. In lieu of demarcation, Joginder Singh, Patwari, received about Rs.12,500/- from me on different dates as a bribe. This money was

given by me and my other shareholders by collecting the same jointly. After that, I met Joginder Singh, Patwari, in his office to know about the mutation of the land, where I came to know that the Patwari had not entered the mutation. When I had talked about this to the Patwari, he said to me that he will enter the mutation, but I have to bear the expenses. Upon my asking, the Patwari said to me that you three shareholders give Rs. 10,000/- jointly. Then, as per the demand of the Patwari, I made a false promise of giving him Rs. 10,000/- and came back and for getting the action initiated against him, I came to your office at Mansa on 03.06.2024. I do not have any audio/video regarding the demand for a bribe by the Patwari at that time. Then DSP Vigilance Mansa, after hearing me, as I was not having any audio/video regarding the demand for a bribe by the Patwari, asked me to make a recording of the demand for a bribe by the Patwari. But on my phone, no recording could be done. Due to this, as per my request, the staff present in the office gave me one recorder and told me how to operate it. Then I purchased a new memory card and put the same in it, and on 08.06.2024, I went to the office of Patwari Joginder Singh at Budhlada to meet him and talk regarding the bribe. Before entering the office, I had turned the recorder on and kept it in my pocket. When I met the Patwari after entering his office and talking STRATE about my work, the Patwari demanded a bribe for my work. I had also discussed the bribe earlier taken by him, and the Patwari agreed to the same. For getting my mutation sanctioned, Patwari Joginder Singh demanded Rs.10,000/- from me, out of which I gave Rs.1,000/- to the Patwari at that time, who said that Rs.500 for the expenses which I have withdrawn your fard and Rs.500/- which you have to pay 6000/- of your share out of Rs.10,000/- has arrived. Patwari Joginder Singh demanded Rs.5500/- from me as the balance amount of the bribe. As the money could not be arranged, I could not come to your office for getting action initiated against Patwari Joginder Singh. You have heard the recording of the discussion of the bribe by Patwari Joginder Singh and the demand for Rs.5500/- as a bribe, and as per his demand, the amount of Rs.5500/- to be given as a bribe, for that Rs.500-500 Indian currency notes, I am submitting to you. I will submit the memory card with the recording of the conversation regarding the bribe to you later. Today, I spoke to Patwari Joginder Singh on his mobile no. 79017-24299, and he has asked me to come to his office at Budhlada to meet him. I am the applicant. Legal action should be taken against Joginder Singh, Patwari. You have recorded my above statement, which I have read and admitted as correct. Sd/- Gurchand Singh.”

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.

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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:

“ROLE OF PETITIONER

During the investigation of the present case/FIR, it was found that the accused Joginder Singh (present petitioner) had taken Rs. 12,500/- from the complainant in the lieu of demarcation of the land of complainant Gurchand Singh. It is further mentioned that in the audio recording Joginder Singh (present petitioner) was clearly talking about the bribe amount in respect of the demarcation of the land of complainant Gurchand Singh. As such, role of the petitioner Joginder Singh in taking the bribe amount is duly established, as such, present case/FIR was rightly registered against the petitioner Joginder Singh Patwari. Apart from this on 30.07.2024, complainant had presented the memory card which further contains the audio recording of the petitioner Joginder Singh Patwari, recorded by the complainant in respect of the bride demanded and received by the accused Joginder Singh. The Pen Drive containing audio recording of Joginder Singh Patwari is annexed as Annexure R-1 for your kind perusal.”

7. Pre-trial incarceration should not be a replica of post-conviction sentencing. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, per paragraph 6 of the bail petition, the petitioner has been in custody since 24.06.2024. As per the custody certificate dated 07.09.2024, the petitioner's total custody in this FIR is 02 months & 12 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage.

8. 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. This order shall come into force from the time it is uploaded on this Court's official webpage.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

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10. 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)	

11. 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.

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

13. 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 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.

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

(ANOOP CHITKARA)
JUDGE

27.09.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.