

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40973-2024
Reserved on: 17.09.2024
Pronounced on: 27.09.2024

Naveen Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr. Aashish Bishnoi, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0008	07.03.2024	ACB, Karnal, District Anti-corruption Bureau, Haryana	7/7-A of the PC Act, 1988 and Section 120-B/384/201 IPC, 1860

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 14 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2. The true facts of the case are that Naveen Kumar, Dealing Clerk (petitioner-accused) in collusion with co-accused Dr. Pawan Kumar, Nodal Officer, PNDDT, Civil Hospital, Panipat and Vishal Malik, Managing Director, Aadhar Hospital, Panipat were demanding bribe money of Rs. 2,00,000/- from complainant through Vishal Malik (co-accused) in lieu of settling the notice under PC & PNDDT Act.

On 07-03-2024, the complainant Dr. Sanjeev Chhabra S/o Rajender Chhabra R/o Village Kalayat, District Kaithal handed over his complaint to Inspector Sube Singh, Anti Corruption Bureau, Unit Kaithal wherein he had alleged that he was running an Imaging and Diagnostic Centre at Barsat Road, Panipat. In year 2023. Dr. Pawan Kumar, Nodal Officer PNDDT (co-accused) and Naveen Kumar (petitioner-accused) dealing clerk, Civil Hospital, Panipat had checked F-Forms (patient forms) in their centre and they issued him notice by deliberately creating errors with the intention for taking bribe. When complainant met Dr.

Pawan, then he told complainant to meet Naveen Kumar, dealing clerk in this regard. Thereafter, complainant met with petitioner Naveen Kumar who told complainant to pay Rs. 3,00,000/- bribe money, as per instruction given by Dr. Pawan Kumar (co-accused), this amount had been shown to complainant Dr. Sanjeev Chhabra by petitioner Naveen Kumar by writing this in calculator. Thereafter, complainant gave reply to notice in December, 2023 but showed his inability to pay the said bribe amount upon which Dr. Pawan Kumar and Naveen Kumar had threatened the complainant that if bribe amount is not paid, then they will falsely implicate him (complainant) in PC & PNDD cases, due to this complainant met petitioner Naveen Kumar clerk, a week ago and he informed him that this case is now no longer in the hands of the Nodal Officer alone and it will be decided by the committee now and demanded Rs. 3,00,000/- bribe money from complainant. Thereafter, on request of complainant, Naveen typed the bribe amount of Rs. 2,20,000/- on calculator and showed it to him and when he said that even this is too much, than Naveen told him that he will talk to Nodal officer. Thereafter, Naveen typed Rs.2,00,000/- as bribe amount on his calculator with the assurance that the matter will be settled but he didn't want to pay the bribe money to Dr. Pawan Kumar, Nodal officer and Naveen Clerk, hence, the present Case FIR No. 8 dated 07-03-2024 was registered u/s 7, 7A, PC Act, 1988 and 384, 120-B IPC in Police Station, Anti Corruption Bureau, Karnal.

3. That thereafter, the Superintendent of Police, Anti Corruption Bureau, Karnal appointed Sh. Naveen Kumar Assistant Town Planner, Panipat as Gazetted Officer upon which the Gazetted Officer/Independent witness further appointed Sh. Tantripal, driver, O/o ATP, Panipat as Shadow Witness. Raiding team was constituted and after applying Phenolphthalein powder on currency notes of Rs. 2,00,000/- the said notes were handed over to the complainant Dr. Sanjeev Chhabra who was instructed to talk with Naveen Kumar, Clerk, Civil Hospital, Panipat for his work and on raising his demand, the complainant was instructed to hand over Rs. 2,00,000/- tainted money to Naveen (petitioner-accused). During this. complainant asked the inspector that he had received an information from petitioner Naveen Kumar to give the bribe amount to Vishal Malik, Managing Director, Aadhar Hospital, Panipat in his hospital. The Shadow witness was also instructed to see and hear the conversation between complainant and accused and was further directed to give the appointed signal to the raiding team. List of Currency notes, memo of handing over the notes and the search memo etc. were prepared.

Thereafter, the complainant and shadow witness proceeded to meet Vishal Malik and after some time the complainant, the shadow witness acted accordingly and thereafter, Vishal Malik (co-accused) was apprehended inside the cabin of the Aadhar Hospital, Panipat. Upon asking him to produce the bribe money, Vishal Malik told that he had handed over the bribe money of Rs. 2,00,000/- to his employee namely Paras for keeping its safely in a particular place in a Hospital.

Thereafter, co-accused Vishal Malik was arrested in the present case and he voluntarily suffered his disclosure statement (Annexure R-1) and disclosed that he took the bribe money from complainant upon asking of petitioner Naveen Kumar dealing clerk and his share was 10 percent out of it, whereas, 20 percent share was of Naveen Kumar (petitioner-accused) and rest was of Dr. Pawan Nodal officer (co-accused) and further offered to get the same recovered.”

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 status report.

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

"12. That on 1-7-2024 the investigating officer took into possession the call details of Dr. Sanjeev Chabra (complainant) mobile No. 81477- 21527 and Dr. Pawan Kumar (co-accused) mobile No. 94671-90830 from 24-9-2023 to 26-9-2023 vide separate recovery memo and upon its analysis, it was found that the Tower Location of above said mobile numbers of the complainant and co-accused were same on 25-9-2023 at about 10:00 AM in Samalkha, Panipat. The true translated copy of Analysis report of investigating officer is attached herewith as Annexure R-5."

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 18.06.2024. 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.

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

12. 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.

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

14. 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.

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

(ANOOP CHITKARA)
JUDGE

27.09.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.