

CRM-M-53325-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53325-2024
Reserved on: 11.11.2024
Pronounced on: 25.11.2024

Vijay Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Nikhil Ghai, Advocate and
Ms. Malini Singh, Advocate
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
36	23.10.2023	Vigilance Bureau, Patiala Range Patiala	7 of Prevention of Corruption Act

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, however as per custody certificate, the accused has the following criminal history:-

Sr. No.	FIR No.	Date	Offenses	Police Station
1	183	24.06.2006	13(1)(J) 13(2) of PC Act and 384, 389, 120(2) IPC	Sunam
2	32	2020	342, 166, 166A IPC	City 1, Sangrur
3	103	2017	353, 332, 186, 506 IPC	Longowal
4	317	2019	7/8/13 of PC Acta and 365/342/120-B/379-B IPC	Civil Lines, Patiala
5	52	25.04.2021	15/25/29/61/85 of NDPS Act	Dhanula
6	25	13.03.2021	15/25/29 of NDPS Act	Dhanula

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

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reads as follows:

“4. That the brief facts of the case are that SHO, Police Station Vigilance Bureau Patiala Range Patiala received Toll Free Complaint No.24 dated 29-05-2023 from Shammpy Singh son of Paramjit Singh, r/o village Tarkhan Majra, Tehsil Samana District Patiala against ASI Raghvir Singh and others. Wherein it has been found that case FIR No.41 dated 09-03-2023 U/s 22/61/85 NDPS Act was got registered at P.S. Sadar Samana by CIA Staff Samana against Shammpy Singh and his brother Jugraj Singh @ Joga Singh son of Darshan Singh resident of village Tarkhanmajra, Tehsil Samana District Patiala and Jugraj Singh @ Joga Singh was arrested at the spot and Shammpy Singh escaped and this fact has been mentioned in the FIR. At this, Shammpy Singh filed his anticipatory bail before the Hon'ble Punjab and Haryana High Court, Chandigarh, in which the Hon'ble High Court vide order dated 13-04-2023 directed Shammpy Singh to join the investigation of the above said case. To comply with the orders, Shammpy Singh went to CIA Staff, Samana to join the investigation, with a copy of the order passed by the Hon'ble High Court, and met ASI Raghvir Singh, who told him that he would not be allowed to join the investigation of the case by ASI Nishan Singh, until he pays Rs.10 lakhs, as per the demand of Incharge Vijay Kumar CIA Samana. If Shammpy Singh did not pay this amount, then Inspector Vijay Kumar would nominate him in another case and in the said case his anticipatory bail would be got cancelled at the Hon'ble High Court. Then on 26-04-2023, Shammpy Singh met ASI Raghvir Singh, who after taking ASI Nishan Singh (I.O.) alongwith him appeared before Inspector Vijay Kumar, Incharge CIA Staff, Samana, where Shammpy Singh was joined in the investigation. After getting joined Shammpy Singh in the investigation of the above noted case with I.O., ASI Raghvir Singh received bribe money of Rs.6 Lakhs from Jaspal Singh brother in-law of Shammpy Singh from his shop PBX1 Fashion Zone, Sullar Road, Patiala on 27/04/2023 at 19:43 P.M. The location of mobile phone No.98142-66522 of ASI Raghvir Singh on 27/04/2023 at 19:44 P.M was found at village Sullar district Patiala as per C.D.R. Shammpy Singh after taking L.E.D. DNA of CCTV Camera installed at the shop of Jaspal Singh his brother in-law, after preparing a video in his mobile phone, after putting in Pen Drive Sandisk produced before the Vigilance Department. ASI Raghvir Singh started demanding the remaining Rs.04 lakhs from Shammpy Singh and started harassing him. In this regard Shammpy Singh produced audio recording, wherein ASI Raghvir Singh asked, he would get agree Inspector Vijay Kumar for a sum of Rs.2 lakhs. So, ASI Raghvir Singh by receiving bribe money of Rs.6

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lakhs and further demanding Rs.04 lakhs from Shammpy Singh, from which prima facie case u/s 7 of Prevention of Corruption Act, 1988 (as amended by PC (Amendment) Act 2018) is made out against him. The role of Inspector Vijay Kumar No.104/PR, Incharge CIA Samana and ASI Nishan Singh as I.O. will be considered later on. So, the above noted case was registered at P.S. Vigilance Bureau, Patiala Range, Patiala against ASI Raghvir Singh, CIA Staff, Samana.”

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 reply.

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

“ROLE OF THE PETITIONER:

That the petitioner is having criminal back ground and even then again and again committing offences under P.C. Act. Since the petitioner had received Rs.6,00,000/- as bribe money from the complainant -Shammpy Singh through ASI Raghvir Singh, out of which he had paid Rs.10,000/- to accused-ASI Raghvir Singh. But after the arrest of the petitioner on 02.08.2024, the petitioner did not get recovered any amount out of Rs.5,90,000/-. From 02-08-2024 till date, the petitioner is in judicial custody. Custody certificate dated 07-11-2024 is attached herewith as Annexure R-5. Therefore, the petitioner is not entitled to any concession of bail in this case.”

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. As per the custody certificate, the petitioner's total custody in this FIR is 03 months & 01 day. 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. The petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

9. 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.

10. 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

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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.

11. 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)	

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. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

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

15. 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.

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

(ANOOP CHITKARA)
JUDGE

25.11.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.