

2024:PHHC:170447



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-53757 of 2024
Date of Decision: 18.12.2024

Nilajan Gupta		...Petitioner
	Versus	
State of Haryana		... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Kamal Sehgal, Advocate and
Mr. Ravinder Pankaj, Advocate for the petitioner.

Mr. Rajinder Kumar Banku, DAG, Haryana.

Mr. Virender Kumar, Advocate, for the complainant.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 483 of the Bhartiya Nagarik Surksha Sanhita, 2023, with a prayer to grant concession of regular bail to him in case FIR No. 21 dated 23.09.2024 under Section 7 of the Prevention of Corruption Act (hereinafter to be referred as ‘the PC Act’) and later on added Sections 13(1) B and 13(2) of the PC Act registered at Police Station Anti corruption Bureau, Rohtak.
2. Learned counsel for the petitioner contends that the petitioner was posted as a Regional Provident Fund Commissioner-II at Sonapat at the time of his arrest and has been falsely involved by

the complainant with some ulterior motive. The FIR was lodged on the complaint moved by Mohit son of Ranveer Singh and the same has been reproduced below:-

"It is stated that I, Mohit son of Ranveer Singh is permanent resident of Village Salimsar Majra, Police Station Sadar Sonipat, presently residing in H.No. 710, Sector 23, Sonipat. I am LLB pass and I practice as an Advocate in Court Sonipat. My elder grandfather Sh. Surat Singh has Gahlot Public School in village Mahipur, District Sonipat. One clerk of the School namely Rupesh Bal has filed a false complaint in the PF Office, Sonipat that the manager of the school has deducted my PF amount but he has not deposited the same in the PF office. On this complaint, PF Sonipat issued a notice to the school and asked to appear on dated 27.08.2024 along with school record and appointment letter. In this regard, I also met to Nilanjan Assistant Commissioner Provident Fund Sonipat and told him the details of his case, then the Assistant Commissioner stated that I will settle your case, for which you have to have some expenses. I asked what expenses I have to spent, then he said that you should meet Enforcement Officer of my office Mukesh Khandelwal, I will tell him. When on dated 17.09.2024 I met Enforcement Officer Mukesh Khandelwal in PF office Sonipat, he said that I have talked to Nilanjan Sahab. You have to pay Rs. 15,00,000/- for your work. I said that the amount is so much high at this the Enforcement Officer Mukesh Khandelwal said that I shall tell you again after consulting Nilanjan sahib, I will take my expenses separately for this work. At this I

accepted this. When on dated 19.07.2024, I met to Mukesh Khandelwal in his office, the Mukesh Khandelwal told me that I have finalized the matter with Sir. Your work will be done. Then after a long conversation, our deal was finalized for Rs. 12,00,000/-. I will tell you the time and place to take the money. On dated 21.09.2024 time at about 2.30 PM I was called by Enforcement Officer Mukesh Khandelwal from his phone number 9540740041 that you should come on 23.09.2024 and we will meet in the office first. After that we will go out somewhere. Today, I have been called with along with bribe amount of Rs.2,00,000/- by the Enforcement Officer Mukesh Khandelwal. I do not want to give bribe money to both corrupt government officers Nilanjan Assistant Commissioner PF Department Sonipat and Enforcement Officer Mukesh Khandelwal. The recording of conversation between me and Enforcement Officer Mukesh Khandelwal PF Office Sonipat regarding the demand of bribe shall be produced in the form of pen drive to you later on. The legal action should be taken against both corrupt government officers Nilanjan Assistant Commissioner PF Department Sonipat and Enforcement Officer Mukesh Khandelwal PF Office Sonipat. Thanking you,

Signature MOHIT

Mohit Gahlawat

S/o Ranveer Singh,

Mobile No. 9017271009)”

3. Learned counsel further contends that at the time of the FIR, the complainant himself had produced a recorded conversation between him and Mukesh Khandelwal, Enforcement Officer and there was no conversation of any demand by the petitioner nor any such recorded conversation was submitted before the police authorities. Still further, even the bribe was allegedly handed over to Mukesh Khandewal and the petitioner had no connection with the allegations levelled in the FIR. Learned counsel further contends that the allegations were levelled with regard to the deposit of Gehlaut Public School, however, the petitioner was not dealing with the matter pertaining to the establishment of the said school and some other officer was dealing. The petitioner was recently promoted as Regional Provident Commissioner-II and had started dealing with this matter. Thus, the liability on the establishment w.e.f. 01.04.2012 has already crystallized during the tenure of some other officer and the employer was under legal obligation to deposit the same in compliance of statutory provisions of the Employee's Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter to be referred as '**the EPF and MP Act**'). Still further, the petitioner was illegally arrested without adopting proper procedure as stipulated under Section 17-A of the PC Act.

4. Section 17-A of the PC Act clearly provides that no police officer shall conduct any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant

under the PC Act, where the alleged offence is related to any recommendation made or decision taken by such public servant in discharge of official functions or duties, without previous approval of the competent authority. The petitioner is an employee of the Employee Provident Fund Organization, a trust created under Section 5A of the EFP and MP Act and the approval was required to be taken from the Central Board, i.e., the Appointing Authority. In the present case, the police had neither taken any sanction from the Central Board nor from any other higher authorities under Section 17-A of the PC Act and the arrest of the petitioner was illegal. Learned counsel further submits that the petitioner neither demanded nor accepted any bribe in the present case as there was no trap on the petitioner and the petitioner had no connection with the alleged bribe money, which was accepted by the co-accused.

5. Learned counsel further submits that the petitioner was arrested in the present case on 23.09.2024 and is in custody for the last about 03 months. He is a senior government official and there are no chances of absconding from the process of law. Moreover, the investigation has already been completed and the challan has been filed against him. Thus, further custody of the petitioner will not serve any meaningful purpose.

6. On the other hand, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner on the ground that the petitioner was the main accused and

the complainant had met him in the first instance and the petitioner directed him to contact Mukesh Khandelwal, co-accused. Still further, the petitioner is a senior government official and may influence the witnesses of the prosecution. Consequently, the petition is liable to be dismissed by this Court.

7. I have heard learned counsel for the parties and perused the record carefully.

8. While granting the bail, the Court has to keep in mind the nature of accusations, the nature of evidence in respect thereof, the severity of punishment which the conviction will entail, the character, behaviour, means and standing 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 witnesses being tampered with, larger interest of public etc., Even, this Court is conscious of the fact the object to bail is neither punitive nor preventive. The deprivation of liberty must be considered a punishment, unless it can be required to ensure that the accused will stand his trial when called upon.

9. In the present case, the allegations levelled against the petitioner point towards the seriousness of the charge, however, this Court has also noticed that the petitioner is in custody for the last about 03 months and the investigation has already been completed against him. Still further, the petitioner was posted as Regional Provident Fund Commissioner at the time of his arrest and being a

government servant, there are no chances of fleeing from the process of justice. Moreover, the prosecution has not been able to produce any evidence to show that the petitioner is in a position to influence any of the witnesses of the prosecution. Moreover, the trial is yet to formally start against the present petitioner and there is a remote possibility of conclusion of the trial in near future.

10. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing heavy personal bail bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

18.12.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No