

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-58547-2023

Date of decision: 09.04.2024

Vajinder Singh @ Gill

.....Petitioner

Versus

State of U.T Chandigarh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Angel Sharma, Advocate
for the petitioner.

Mr. Manish Bansal, P.P., U.T., Chandigarh with
Ms. Diksha Sharma, Advocate
for the respondent-UT Chandigarh.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.140 dated 06.08.2023 under Sections 364-A, 365, 386, 389, 420, 506, 120-B of the IPC registered at Police Station Sector 39, UT Chandigarh, District Chandigarh.

2. Learned counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in the present case just to shield the main accused. It has been further submitted that although the petitioner was named initially, another person who too was similarly placed, namely, Jitender and who too had played an identical role in the alleged crime by orchestrating an illegal cash transaction, and summoning the complainant to the spot, was curiously cited as a prosecution witness, without being granted the status of an approver. Additionally, it has also been submitted that one Sarvesh, who too had initially contacted the complainant and instructed him and had assured

him that to come to the spot for exchanging currency notes of Rs.2,000/- for Rs.500/- denominations had also been cited as a prosecution witness. Learned counsel has thus argued that in the circumstances, it definitely hints towards a deliberate attempt by the investigating agency that they are trying to shield the actual accused while wrongfully implicating the petitioner in the instant case. It has been further submitted that the petitioner was arrested on 08.08.2023 and thereafter investigation had also concluded, however, charges had not yet been framed. Hence, there was no likelihood of the trial concluding in the near future.

3. Per contra, learned counsel appearing for the respondent-UT Chandigarh while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has contended that the petitioner was an active participant in the crime in question; he had extorted, coerced and robbed the complainant of a huge sum of Rs.1 crore. It has been further asserted that the petitioner orchestrated the alleged illegal transaction, by calling the complainant to a secluded place and then proceeded to call the other co-accused to the spot, where the complainant was then threatened with dire consequences, in case he did not part with the money. It has been submitted that no doubt Jitender had been cited as a prosecution witness, however, in case the petitioner is aggrieved thereof, he can challenge the same before an appropriate forum but while seeking the concession of bail, he cannot raise this argument. Additionally, it has also been asserted that the involvement of the petitioner stands explicitly detailed not only in the statement of Jitender but also in the initial complaint made to the

police. Furthermore, learned counsel appearing for the State has submitted that since the complainant is the most crucial witness and is yet to be examined, there exists a significant apprehension that granting bail to the petitioner at this juncture may lead to intimidation or influence over the prosecution witnesses. Hence, a prayer has been made for dismissal of the instant petition.

4. I have heard learned counsel for the parties and perused the material placed on record.

5. It would be apposite to reproduce the relevant portion of the FIR in question, as under:-

“.....One Sarvesh who deals in currency/coins is known to me for quite some time. On dated 04.08.2023, said Sarvesh called from his phone no. 7814004040 on my mobile phone no. 9814586552 and said that he had large amount of cash and wanted to exchange the currency of denomination of 2000/- with denomination of 500/- and how much I could get it changed to which I told him that I could give Rs. 1 crore in the denomination of 500-500 of Indian currency. Sarvesh affirmed and told me to contact with one Jitender, who was working in Aero City, Mohali and gave mobile number of Jitender i.e. 9988531010 and told me to act according to what he says. On the same day, I along with one known person namely Raj Kumar left from Bathinda for Mohali Aero City at about 2.45 PM in his Honda City car bearing No. PB-03-AT-7027 driven by him and I was sitting on the passenger seat and brought cash amount of Rs. 1 crore in which one box carrying Rs. 60 lacs was kept in the diggi of the car and 2 packets of Rs. 20 lacs each was kept in my pocket. Around 5.30-6 PM I alongwith my known person Raj Kumar reached the location sent on my phone by Jitender Address H No 2434 C Block Aero Block Aero City Airport Road Mohali and reached the location Bright Immigration Address 2434 C Block Aero Block Aero City Airport Road Mohali where one Sikh person approached towards the car and told us that the work will be done as per what Sarvesh has said and further told us to follow his car. Then Jitender sat in black colour Mercedes car along with two other persons, who were on the passenger's seat of said Mercedes car and we followed his car who took us in the parking of Thakur Tikki wala, Sector- 40 C, Chandigarh. We parked our car in the said parking whereupon Jitender got off his

car and sat on the rear seat of our car and after some time, one person who was wearing a cap also came and sat on the rear seat next to Jitender. Said Jitender was talking with the other person by calling him 'Gill Sahab'. Thereafter, Jitender and Gill told us that they wanted to exchange the currency denomination of 2000 as nobody was exchanging their currency and we are being harassed since morning and asked us to show the currency so that they are assured of the same. Thereafter, I showed them the 2 packets of Rs. 20 lakhs total Rs. 40 lakhs and opened the same and told them the remaining Rs. 60 lakhs are lying in the diggi of the car which can also be checked. They believed us and told us to wait for some time and work will be done. Then they called someone and asked him to come there by saying that "party ke pass saman hai, aap apna saaman le kar Sector- 40, Thakur Tikki Market me aa jao". Thereafter, after half hour at about 7.00-7.30 PM, 3 persons came towards our car, out of which one person was in police uniform, 2nd was wearing khaki pants, light yellow colour shirt and brown shoes and 3rd was wearing jeans and black shirt. The person in the police uniform knocked on the car from back side and asked us to open the boot area (diggi) of car. Immediately, the persons Jitender and Gill moved out of the car of complainant and went away from there. Thereafter, the 2nd person, who was wearing light yellow colour shirt, brown shoes and khaki pants knocked on the window of Raj Kumar and took out the key and opened the diggi of the car. The third person thereafter, took our mobile phones and put them on flight mode. Thereafter, the person in police uniform sat on the driver seat of car and asked Raj Kumar to go to the backseat and threatened us to keep quiet and brought us at the Police Beat Box by driving the car. The 2nd person, who was carrying the mobile phones of the complainant and Raj Kumar, also came at the Police Beat Box in his Duster car. We were asked to sit in the Police Beat Box and also brought the cash amount of Rs. 1 crore from the car to the Police Beat Box. They then searched/checked the pockets of both of us and took cash amount of Rs. 1 Lakhs from our pockets and also forcibly took the Driving License, RC etc. from Raj Kumar. Another person who was wearing jeans and shirt and was carrying a pistol noted my particulars i.e RC, D/L and when we protest against them they threatened us with dire consequences and asked us to keep quiet. Then the person wearing light yellow colour shirt, brown shoes and khaki pants took away Rs. 1 crores cash, 1 lakhs cash, RC, D/L from the beat box in the duster car. The remaining three persons made us sit in our Honda City car and took us to a secluded place near Sector 39, Ziri Mandi Shed where the person wearing light yellow colour shirt, brown

shoes and khaki pants came there in the Duster car where the 4 persons threatened us with dire consequences and that they will falsely implicate us in a fake pistol and drugs case and our lives will be ruined. They then asked us to run away and not look back. Then they gave us the keys of our Honda City car and in order to save our lives we drove away from there and after reaching home told the entire incident to our family members and on dated 05.08.2023 we reached Police Station Sector 39, Chandigarh where I saw the person who was wearing yellow colour shirt, brown shoes on 04.08.2023 whose name was Naveen Phogat Rank of Sub Inspector. All these persons in conspiracy with each other devised a well thought plan showing the fear of police and threatened us with dire consequences and committed our kidnapping by taking us around in different sectors, threatening to implicate us in a false case and forcibly taking Rs. 1 crore 1 lakhs and documents as well as for committing cheating....”

6. Prima facie, a perusal of the FIR reveals that the petitioner is the main conspirator of the offence in question. After confirming that the complainant had arrived in Chandigarh, the petitioner called the other accused to the place and looted the entire sum of money which the complainant was carrying with him after putting him under threat of dire consequences. In the facts and circumstances as enumerated hereinabove, this Court does not deem it fit to extend the concession of bail to the petitioner.

7. Accordingly, the instant petition is hereby dismissed.

8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

09.04.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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