



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64316-2024
DECIDED ON: 20.12.2024

DR. PRATHAP KUMAR

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Navyuggeet Brar, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked for the second time under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.20 dated 29.10.2024, registered under Section 420, 467, 470, 471, 201 and 203 I.P.C. etc. at P.S. Anti-Corruption Bureau, Faridabad.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

To, The Station House Officer, Police Station Anti-Corruption Bureau, Faridabad Division, Faridabad. Sir, Enquiry No. 06 dated 12.12.2022 Faridabad Office of Chief Secretary, Haryana Government, Vigilance Department In compliance with the order No. 49/105/2022-4 (1) dated 08.12.2022 of the office of Director General, State Vigilance Bureau (H00) Panchkula, as per endorsement 19462/1-2/SVB (H) dated 13.12.2022, the

intelligence report was registered and received for investigation and in this regard the office of the Chief Secretary, Haryana Government, Vigilance Department. In compliance with the order No. 49/105/2022-4 Ch(1) dated 02.01.2023 of the office of the Chief Secretary, Government of Haryana, Vigilance Department, as per the endorsement 448/1-2/SVB(H) dated 06.01.2023 of the office of the Director General, State Vigilance Bureau (H), Panchkula, as per the complaint received from Shri Man Singh Bhati son of Shri Raj Singh resident of H.No. 888, Gali No. 1, New Baselwa Colony, Old Faridabad, the following allegation was to be investigated. Accused No. 1 A Heart Centre was started in BK Hospital, Faridabad in the year 2018. In order to provide treatment of heart disease to the general public at affordable rates in government hospitals, under the PPP Model Scheme, the tender for opening a Heart Centre was issued to Meditrina Hospital Pvt. Ltd., Kollam, Kerala in the year 2018. It was given in 2017. Under this scheme, a contract was signed between Haryana Government and Meditrina Hospital Pvt. Ltd., according to which the above company started a heart center in BK Hospital Faridabad from the year 2018. According to this contract, the bills of (Ayushman Bharat card holders, Haryana government employees, Scheduled Castes, BPL card holders etc.) were to be paid by the government hospital. But the above company did not do so and charged the bills from them individually (which came under the free category). The company paid the bills in cash from the patient and also took payment from the government hospital. In this regard, a list of 4 BPL card holders and 3 Ayushman Bharat card holders is given. Those who have paid cash for their treatment to the said company and the company has also taken its payment from the government hospital. Allegation No. 2: It has also been observed that the doctors of this company are using Puncture needle, Balloon, wire, catheter, ROTA, Thrombus aspiration Catheter and other equipment many times. Whereas according to clause no. 5.1.5 of page no. 12 of the contract, all the equipment should be new and not old. The list of 39 patients in whose treatment old equipment was used is attached. According to the guidelines of the Medical Council of India and the World Health Organization, old wire, balloon and other equipment should not be used in the treatment of heart patients (CAG PTC). This poses a serious threat to the life of the patient. Due to this, 100 deaths have occurred in the Heart Center, General Hospital Faridabad since February 2018. Apart from this, it has also come to light that the bills issued by

the company are higher than the rates approved by the government. In this way, Meditrina Hospital Pvt. Ltd., along with the Chief Medical Officer General Hospital Faridabad and his employees, are causing huge losses to the Haryana government and creating a huge threat to the health of the citizens. From the observation of the statements and documents obtained during the investigation, it was found that in charge no. 1, a contract was signed by the Haryana Government with Meditrina Company Private Limited, District Kollam (Kerala) in the year 2017 for the treatment of people suffering from heart disease in District Faridabad. According to this contract, heart patients were to be treated at Meditrina Heart Center as per the rate list issued by the government and apart from this, patients belonging to exempted categories (BPL, Scheduled Caste, Ayushman Bharat and on-duty employees of Haryana Government) were to be treated free of cost by Meditrina Heart Center and bills for the amount spent on their treatment were to be prepared and submitted monthly to the Chief Medical Officer's Office, BK Hospital, Faridabad for payment, on which payment was to be made from the government account after checking the bills by the checking committee constituted in the PMO office. On investigation, it was found that in the year 2018, Meditrina Heart Center started treatment work for the treatment of patients related to the contract heart on the third floor of BK General Hospital, NIT Faridabad. During the investigation. Meditrina Heart Center showed an expenditure of Rs. 13,29,490/- on the treatment of 4 disputed BPL card holders of the exempted category. namely Bhopal Yadav, Kaushalya Devi, Aapu and Zikru Rehman and 3 Ayushman Bharat card holders, namely Vinod Kumar, Ramesh Chand and Siyaram. Bills were found to be paid from the PMO office. Apart from this, apart from the above payment amount, cash amount of Rs. 2,57,260.50/- was also found to be received from the above 7 patients during the second treatment. Whereas all the above patients belong to the exempted category and the above patients were found to have got free treatment in the exempted category earlier, but despite that, it was found that Meditrina Heart Center treated these patients by taking cash amount during the second treatment. In this regard, the above patients and their families have said that the allegations about Meditrina Heart Center taking cash amount in exchange for treatment are correct. Whereas in the contract with Meditrina Heart Center, there is no provision of taking cash amount spent on treatment from exempted patients after treatment and Meditrina Heart

Center has not given any clear answer in this regard. During the investigation, Meditrina Heart Center did not provide any record of documents from the time of admission to the patient till discharge after treatment, bills related to the equipment used in the treatment and care etc. even after repeated correspondence. In this regard, the doctors/cardiologists of Meditrina Heart Center have accepted in their statements that they also use old reused equipment in the treatment of patients. But due to non-availability of complete records from Meditrina Heart Center, it could not be clarified how much revenue loss has been caused to the government by using old equipment instead of new equipment in the treatment of the above 7 exempted patients and how much unfair benefit has been obtained by receiving cash from the patients. Besides this, during investigation, it was found that 39 patients (Ramchandra, Sheela Devi, Gopichand, Jayanarayan, Sudhir, Shyamdev Gupta, Thakur Lal, Radhelal, Suresh, Sabjudin Khan, Kuldeep Kaur, Baburam, Suresh Kumar, Sundar Singh, Chutta, Mohin Khan, Binduram, Mahesh, Jasvendra Singh, Kharak Singh, Hiralal, Kaushalya Devi, Kasturi, Ranbir, Akbar, Kishan Saini, Chatar Singh, Amichand, Kaulya Devi, Rahim Bux, Rajkumar, Poornmal, Shravan, Mustaq, Sohan Lal, Narayan, Vijendra, Mohd Kasam and Giriraj) of the exempted category in the year 2018-2019 were treated by Meditrina Heart Centre and the related documents were sent to PMO office for payment, for which the PMO office had not paid Rs. 34,45,672.20/- Payment of Rs. 30000/- has been found to have been made. Verified copies of all the documents related to the above mentioned 39 patients were obtained from the PMO office Faridabad. In this regard, after their treatment from the time of admission in Meditrina Heart Center. Even after repeated correspondence by Meditina Heart Centre, no record of documents till discharge, material used in treatment and bills related to care etc. was made available. During the investigation, when Cathlab register/records were sought from Meditrina Heart Centre to examine the equipment used by Meditrina Heart Centre during the treatment of the above mentioned 39 exempted patients, only 4 Cathlab registers (Reg. No. 3 dated 14.01.2019 to 15.03.2019, Reg. No. 5 dated 09.05.2019 to 29.06.2019, Reg. No. 6 dated 06.09.2019 to 23.08.2019 and Reg. No. 1 dated 05.12.2019 to 03.02.2020) were made available, apart from this it was told that no records were available. On observation of these 4 registers and as per the statement of Shri Naresh Kumar, the then Cath Lab

Incharge, Meditrina Heart Centre, Faridabad, details related to treatment of heart patients were found to be recorded in the Cath Lab register and details of equipment used by patients during treatment were also found to be written. 'O' is written in front of the equipment for which old equipment was used and N is written in front of the equipment for which new equipment was used. Out of the above disputed 39 patients, records of only the following 8 patients were found available in the Cathlab register, in whose treatment the details of old/reused material used are as follows:

SR	NO	PATIENT NAME-MF	NO-CATEGORY-CATH	NO	BILL	DATE-BILL	AMOUNT-OLD/REUSE	ITEM	AMOUNT-
(1)	MAHESH-19000891	BPL-1392-462	09.02.19	1.00.688	BLLOON-24664	THROMBUS	AP- 3500059664/-		
(2)	JAIVENDER SINGH-19000873	AB-1406-469-	10.02.19	66,403	BALLOON	BALLOONS	-24664x249328/-	(5)	SOHAN LAL- 19001563-BPL-1484-504-04.03.19-96,940-2
(8)	MOHDKASAM-19001572	BPL-1487-507	04.03.19	1,10,203	ALLOON24664x249328/-	TOTAL-8,38,081/-	OLD/REUSE	ITEM	AMOUNT 4,17,768/-
(3)	RANBIR--19001236	BPL-1459-492	25.02.19	76,304	FIELDER FC PTCA WIRE-8400BALLOON-2466433064/-	(4)	MUSTAK-19001559-BPL-1483- 503-06.03.19-1,04,878-2	BALLOONS-24664x249328/-	THROMBUS
(6)	NARYAN-19001568	HRG-1485-505	07.03.19	1,97,609-2	BALLOONS-24664x249328/-	BMW WIRE-B400THROMBUS	AP- 3500092728/-	(7)	BIJENDER-19001658-HRG-1509-519-06.03.19-85,053
					2BALLOONS. 4664x249328/-	Mohd Kasam 19001572-BPL-1487-507-	04.03.2019	1,10,203	Alloon 24664x249328/-
					Total 8,38,081/-	Old Reuse Item. It has been found that old/reused material worth Rs. 4,17,768/-has been used in the material shown in the bills. By doing so, Meditrina Heart Centre has caused a revenue loss of Rs. 4,17,768/- to the Haryana Government. Apart from this, the revenue loss could not be assessed as the documents related to the treatment of the			

remaining 31 patients out of the above disputed 39 patients like Cathlab register, IPD file etc. were not made available by Meditrina Heart Centre even after repeated correspondence. During the investigation, the members of the checking committee constituted in the office of Chief Medical Officer, BK Hospital Faridabad have also clarified in their joint statement that as per the contract, Meditrina Heart Centre cannot use old/reused material during the treatment of any heart patient. But the old/reused items used by the cardiologists working at Meditrina Heart Centre during the treatment of heart patients, Meditrina Heart Centre is being provided unethical benefits by preparing bills for new items by the finance branch of Meditrina Heart Centre and getting the payment from the office of PMO Faridabad. During the investigation, on repeated correspondence, the management staff of Meditrina Heart Centre Faridabad did not provide the list and bills of the items purchased by Meditrina Heart Centre Faridabad from the year 2018 to 2024, the Cath Lab Register related to the items used during treatment, the appointment of officers/employees and details related to their work. From which it is clear that the said records/evidences have been tampered with by Meditrina Heart Centre Faridabad in its defence. Therefore, from the statements recorded during the investigation, the documents obtained and the investigation conducted, it has been found that Meditrina Heart Centre has wrongly recovered Rs. 8,38,081/- from the treasury of Haryana Government by showing use of new material in the treatment of 8 heart patients out of the disputed 39 heart patients mentioned in the allegations, whereas, it has been found that old/reused material worth Rs. 4,17,768/- has been used in the material shown in these bills. By doing so, Meditrina Heart Centre has caused revenue loss of Rs. 4,17,768/- to Haryana Government. Therefore, Chief Management Officer (CMD) of Meditrina Heart Centre Faridabad 1. Dr. Pratap Kumar son of Shri Natraj Pillai, resident of H.No.-10/1118, Sambhavi Ashram, Meditrina Hospital, District Kollam (Kerala) present/then CMD/Cardiologist Meditrena Hospital, BKH, Faridabad, 2. Shri Praveen Kumar Tiwari son Shri Prabhunath Tiwari resident of village Padriumman, ost Office Matpar Rani, Tehsil Deoria, District Deoria, Uttar Pradesh Presently Pala Tower No.12, Flat No.101, Emaar Palm Hills, Sector-77, Gurugram Then COO NORTH INDIA CHIED OPERATING OFFICER NORTH INDIA COMPANY. Senior Manager Finance, Gadgetrina Harpatal, BKH, Faridabad, 3. Piyush Shrivastava,

then Finance Officer, Meditrina Heart Center, 3rd Floor, BKH Hospital Faridabad (Billing Hand) was suggested to register a case under Sections 203, 201, 406, 420, 467, 468, 471, 120B IPC and during the investigation, by obtaining the desired records from Meditrina Heart Center Faridabad and PMO Office Faridabad from the year 2018 to 2024, assess the revenue loss caused to the government in an unethical manner, investigate the use of old items during treatment, investigate the reasons for the death of patients who died during treatment and if the involvement of any other government officer / employee or any private person is found in the subject matter allegations, then he should also be prosecuted for investigation of the case. It is suggested to look into the matter during the investigation. For registering the charge, the report is being sent to the police station through EHC Pritam Singh No. 2076/Faridabad. After registering the charge, the person should be informed through the number and a special report should be sent to the duty magistrate and higher officials as per rules. Another investigation officer should be appointed to investigate the case. The related record obtained during the investigation is enclosed.”

3. **Contention**

On behalf of the petitioner

Learned Senior counsel for the petitioner contends that in fact the petitioner was a whistle blower and raised complaint against present complainant namely Mann Singh Bhati who has now lodged the instant FIR. It is an admitted position in the instant case that the complainant himself was also an employee of M/s Meditrina Hospitals Pvt. Ltd. whose services were terminated in the year 2019-2020 and thereafter as a counter-blast the instant FIR came to be lodged. The attention of this Court has been drawn by Mr. Kanwaljit Singh, Senior Advocate that an inquiry was conducted against Mann Singh Bhati-complainant who is involved in filing multiple complaints against the institute itself including one complaint bearing

COMI/106 dated 01.03.2023, under Sections 28(1)(b) of P.C./P.N.D.T. Act

wherein a quashing petition has also been preferred bearing CRM-M-29413-2023 and the proceedings in that FIR stands stayed by this Court.

Another complaint moved on behalf of the present complainant was also found to be false by the Haryana Human Rights Commission, Chandigarh vide its order dated 13.11.2019 (Annexure P-14) involving the similar kind of allegations as has been raised in the instant FIR.

Notice of motion.

On behalf of the State

Mr. B.S. Virk, Sr. DAG, Haryana accepts notice on behalf of the respondent-State assisted by Mr. Ritesh Tomar, Advocate, who has filed *Vakalatnama* on behalf of the complainant, which is taken on record and opposes the grant of anticipatory bail to the petitioner on the ground that the petitioner is the Chairman and Managing Director of M/s Meditrina Hospital Pvt. Ltd. and is responsible for day to day working and managements of Centres of said hospital. He further contends that the petitioner is a habitual offender as he is involved in three more criminal cases.

4. Analysis

Be that as it may, the present petitioner who is at the helm of affairs as Managing Director/Chairman though may be vicariously liable as a supervisory authority for day to day functioning but no direct role has been attributed to the petitioner as the files maintained in Hospital do not show any such orders or noting by the present petitioner for charging of fee but benefit of scheme has been given to the patients. It is however, some other employees who have generated such bills and collected payment in cash against the treatment provided to such patients.

In the light of above, learned Senior Advocate for the petitioner undertakes that the petitioner will join the investigation and provide all necessary assistance to the concerned officer during interrogation.

5. **Decision**

Hence, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.’

However, it is made clear that in case the petitioner does not

comply with the aforesaid direction of joining the investigation within a

period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

20.12.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No