

(2022) 12 SHI CK 0111

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 2167 Of 2022

Bhavana Dogra

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 27-12-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438, 439
Indian Penal Code, 1860 — Section 120B, 420
Prevention Of Corruption Act, 1988 — Section 13(1)(d), 13(2)

Citation : (2022) 12 SHI CK 0111

Hon'ble Judges : Vivek Singh Thakur, J

Bench : Single Bench

Advocate : R.S. Cheema, Ajay Kochhar, K.S.Nalwa, Amrinder Singh, Avni Kochhar, Bhairav Gupta, Vivek Sharma, Anubhav Chopra

Final Decision : Disposed Of

Judgement

Vivek Singh Thakur, J

1. Petitioner, invoking provisions of Section 438 of the Code of Criminal Procedure, has approached this Court seeking anticipatory bail in case RC2172021A0002/ACU-IV/AC-IICBI/NEW DELHI, dated 13th March, 2021 under Section 120-B read with Section 420 of Indian Penal Code (in short 'IPC') and 13(2) read with Section 13(1)(d) of Prevention of Corruption Act with CBI, AC-II/ New Delhi, registered on the basis of written complaint received from one Mr. Anupam Chauhan, Inspector, CBI, ACB, Srinagar.

2. Status report stands filed.

3. Learned counsel for respondent, under instructions, submits that after availing anticipatory bail, petitioner has joined the investigation and remained associated with Investigating Agency as and when directed to do so.

4. Learned counsel for petitioner submits that petitioner was an official of M/s Cadbury India Limited and was not personally benefited in any manner by

commission of offence as alleged, if any, and main accused in this case are Government Officials namely Nirmal Singh and Jaspreet Kaur and further that Nirmal Singh the then Superintendent, Central Excise Baddi-III, District Solan has been granted regular bail by Special Judge CBI Shimla, District Shimla vide order dated 5.11.2022 passed in Bail Application No. 55-S/22 of 2022. It has been further submitted that Jaspreet Kaur the then Inspector, Central Excise, Baddi, District Solan had also applied for anticipatory bail invoking Section 438 Cr.P.C. and she has also been enlarged on bail by Special Judge, CBI, Shimla District Shimla vide order dated 5.11.2022 passed in Bail Application No. 60-S/22 of 2022. It has been further submitted that another official, similarly situated to petitioner namely Subhash Sharma serving with M/s Cadbury India Limited, has also been enlarged on bail by Special Judge, CBI, Shimla, District Shimla in Bail Application No. 56-S/22 of 2022 preferred by him under Section 439 Cr.P.C.

5. It has been further submitted that petitioner was an employee of M/s Cadbury India Limited and she had left the job in the year 2013 and present case is mainly based upon documentary evidence and entire documents are either with M/s Cadbury India Limited or Government Department or with Investigating Agency and petitioner has no control over these documents and there is least possibility of tampering the evidence related to case by the petitioner and further that petitioner is ready to abide by any condition imposed upon her by Court if she is enlarged on bail for ensuring her presence during investigation as well as during trial.

6. Entitlement of petitioner for enlargement on bail has also been prayed on the basis of parity for grant of bail not only to similarly situated accused persons but also to main accused, referred supra. It has been further submitted that no further purpose is going to be served by keeping the petitioner behind the bars during pendency of investigation or trial.

7. Learned counsel for CBI has submitted that present case is a case of category of economic offence and therefore, keeping in view this fact, bail application filed by petitioner deserves to be rejected.

8. Taking into consideration the status report, filed by respondent, orders passed in Bail Applications filed by co-accused, who have been enlarged on bail and also submission made by learned counsel for petitioner viz-a-viz role of petitioner and her conduct during period of anticipatory bail and also keeping in view the factors and parameters propounded by the Supreme Court, for considering the bail application, but without commenting upon merits of rival contentions of parties, I am of the opinion that at this stage, petitioner may be enlarged on bail.

9. Accordingly, present petition is allowed and petitioner is ordered to be enlarged on bail, subject to her furnishing personal bond in the sum of Rs.5,00,000/- with one surety in the like amount, as undertaken by petitioner, to the satisfaction of Special Judge(CBI)/trial Court, and upon such further

conditions as may be deemed fit and proper by the trial Court, including the conditions enumerated hereinafter, so as to assure presence of the petitioner at the time of trial:-

(i) That the petitioner shall make herself available to the CBI or any other Investigating Agency or Court in the present case as and when required;

(ii) that the petitioner 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/her from disclosing such facts to Court or to any police officer or tamper with the evidence. She shall not, in any manner, try to overawe or influence or intimidate the prosecution witnesses;

(iii) that the petitioner shall not obstruct the smooth progress of the investigation/trial;

(iv) that the petitioner shall not commit the offence similar to the offence to which she is accused or suspected;

(v) that the petitioner shall not misuse her liberty in any manner;

(vi) that the petitioner shall not jump over the bail;

(vii) that in case petitioner indulges in repetition of similar offence(s) then, her bail shall be liable to be cancelled on taking appropriate steps by prosecution;

(viii) that the petitioner shall keep on informing about the change in address, landline number and/or mobile number, if any, for her availability to Police and/or during trial; and

(ix) the petitioner shall not leave India without permission of the Court or concerned Investigating Officer, during trial or pending investigation as the case may be.

1110 It will be open to the prosecution to apply for imposing and/or to\ the trial Court to impose any other condition on the petitioner, enlarged on bail, as deemed necessary in the facts and circumstances of the case and in the interest of justice and thereupon, it will also be open to the trial Court to impose any other or further condition on the petitioner as it may deem necessary in the interest of justice.

11. In case the petitioner violates any conditions imposed upon her, her bail shall be liable to be cancelled. In such eventuality, prosecution may approach the competent Court of law for cancellation of bail, in accordance with law.

12. Learned trial Court is directed to comply with the directions issued by the High Court, vide communication No.HHC.VIG./Misc. Instructions/93-IV.7139 dated 18.03.2013.

13. Observations made in this petition hereinbefore shall not affect the merits of the case in any manner and are strictly confined for the disposal of the bail

application.

14. The parties are permitted to produce copy of order downloaded from the High Court website and trial Court shall not insist for certified copy of the order, however, if required, passing of order can be verified from the High Court website or otherwise.

The petition stands disposed of in the aforesaid terms.