
(2015) 10 P&H CK 0068
In the Punjab And Haryana At Chandigarh
Case No : CRM-M-32948-2015

Sanjay Dahuja and Others

APPELLANT

Vs

Central Bureau of Investigation

RESPONDENT

Date of Decision : 14-10-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173, 439
Penal Code, 1860 (IPC) — Section 120-B, 420, 468, 471, 511
Prevention of Corruption Act, 1988 — Section 13(1)(d), 13(2), 7, 8

Citation : (2016) 1 RCR(Criminal) 144

Hon'ble Judges : Jitendra Chauhan, J

Bench : Single Bench

Advocate : Bipan Ghai, Senior Advocate and Mandeep Kaushik, for the Appellant; Sumeet Goel, SC, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Jitendra Chauhan, J—The above noticed two petitions, filed under Section 439 of the Code of Criminal Procedure (for short, "the Cr.P.C) are being disposed of by this single order of mine, as both the petitioners have sought regular bail in case FIR No. RCCHG2015A0016 dated 13.08.2015, registered under Section 120-B of the Indian Penal Code, (for short, "the IPC) and Sections 8, 7, 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (for short, "the PC Act"), at Police Station CBI, ACB, Chandigarh.

2. It is contended by the learned Senior counsel appearing on behalf of petitioner, Aman Grover that the petitioner himself is a victim in the present case. It is submitted that the mother-in-law of the petitioner had filed a criminal complaint against the parents and brother of the complainant in the present FIR, Ms. Guneet Kaur, and on the basis thereof, FIR No. 375 dated 26.12.2014, came to be registered under Sections 420, 511, 468, 471, 120-B IPC, at Police Station Sector 17, Chandigarh (Annexure P-2). The accused in FIR No. 375 (ibid) preferred a bail petition before the learned Additional Sessions Judge,

Chandigarh, seeking anticipatory bail, which was dismissed vide order dated 17.7.2015. Thereafter, this Court was approached vide CRM-M No. 25587 of 2015, which was dismissed as withdrawn on 04.08.2015 (Annexure P-4). Consequent thereto, the complainant in the present case approached the mother-in-law of the present petitioner to compromise the matter in FIR No. 375 (ibid). The matter was settled in principle on 08.08.2015, and an affidavit in this regard was executed by the mother-in-law of the petitioner stating therein that she would have no objection if the bail is granted to the accused in FIR No. 375 (ibid). The learned Senior counsel has further referred to the copy of an e-mail, Annexure P/5A, wherein, the draft of the compromise deed was attached for petitioner's comments, to contend that the matter was being compromised and no other person was mediating between them. Thereafter, the petitioner was asked by his mother-in-law to negotiate with regard to the compromise on her behalf, whereas, co-accused, Sanjay Dahuja, was acting on behalf of the accused (family members of the complainant in the present FIR) in FIR No. 375 (ibid). The settlement was arrived at and an amount of Rs. 30.00 lacs was to be paid to the mother-in-law of the petitioner, by way of a cheque, who in return, was to facilitate in the quashing of FIR No. 375 (ibid). A copy of the compromise deed dated 13.08.2015, is Annexure P-6. On 13.08.2015, the petitioner was told to come to the office of co-accused, Sanjay Dahuja. At the time of his arrival at the agreed location, the complainant was also present there. She presented the compromise deed and the cheque of Rs. 30.00 lacs, in favour of the mother-in-law of the petitioner. At that time the CBI personnel entered the office, a raid was conducted and the petitioner was arrested.

3. The learned Senior counsel, thus, contends that the petitioner was acting on behalf of his mother-in-law, being the complainant in FIR No. 375, and there was no occasion for him to act or demand money on behalf of the police. It was the accused in FIR No. 375 (family members of the present complainant), who would have been the ultimate beneficiaries of the compromise. He further contends that there is no reference of the affidavit, Annexure P-5 and the e-mail, Annexure P-5/A, in the report under Section 173 Cr.P.C, prepared by the Investigating agency. There is no reference of Banny Takkar, who, as per the transcripts of the phone calls exchanged between the parties, introduced the petitioner to the complainant. The post dated cheque recovered from the petitioner was towards the compromise, whereas, the amount of Rs. 40.00 lacs was recovered from co-accused, Sanjay Dahuja, for onward payment to DSP Ram Chander Meena. The petitioner has been in custody since 13.08.2015. The challan has already been presented and the charges have been framed. The trial is not likely to be concluded in the near future. Thus, the learned Senior counsel has prayed for the release of the petitioner, Aman Grover, on bail pending trial. The learned counsel cites Sanjay Chandra Vs. CBI, AIR 2012 SC 830 : (2012) CriLJ 702 : (2011) 4 RCR(Criminal) 898 : (2011) 13 SCALE 107 : (2012) 1 SCC 40 : (2011) 6 UJ 4077 .

4. The learned Senior counsel, appearing on behalf of accused-petitioner, Sanjay

Dahuja, states that the petitioner is a businessman. He has no concern, whatsoever, with the parties involved in FIR No. 375. The complainant in that case is the mother-in-law of co-petitioner, Aman Grover, whereas, the accused are the parents and brother of the present complainant. Neither the complainant contacted the petitioner directly, nor the petitioner contacted her on behalf of the police officers. It was on the asking of Aman Grover, that the complainant came to petitioner's office. The petitioner neither demanded, nor accepted any money, nor his hands were washed. There is no allegation against the petitioner of having any share in the amount of Rs. 40.00 lacs allegedly received by him on behalf of the police personnel. Thus, the learned Senior counsel has also prayed for the release of the petitioner-Sanjay Dahuja, on regular bail.

5. On the other hand, learned counsel appearing on behalf of the respondent-CBI has vehemently opposed the present petitions. It is contended that upon the complaint made by the complainant, a trap was laid and the petitioners were caught accepting bribe-money in the presence of the independent witness. He refers to the transcripts of the conversations which took place between the accused and the complainant to contend that the petitioners had been negotiating and ultimately intimidating the complainant to pay the bribe money. The petitioners were demanding a bribe of Rs. 70 lacs, out of which, a sum of Rs. 40.00 lacs were to be paid to the officer/officials of EOW, U.T. Chandigarh Police, for not arresting the parents and the brother of the complainant and Rs. 30.00 lacs were meant to be given to the petitioner, Aman Grover, to get the compromise effected. He further states that after accepting the bribe money, Sanjay Dahuja was ready to make a phone call to co-accused, Ram Chander Meena, for further delivery of the bribe money, in the meantime, a phone call was received from Ram Chander Meena on the mobile phone of Sanjay Dahuja, and the conversation between them clearly establishes that Sanjay Dahuja demanded and accepted the bribe of Rs. 40.00 lacs on behalf of Ram Chander Meena. It is further submitted that the involvement of other persons is yet to be determined and other materials are yet to be collected. The mobile phones of the accused who were arrested, have been sent to the Forensic Science Laboratory and the report is still awaited. The learned counsel refers to Annexure R-1, the application moved by the complainant before the Advisor to the Administrator, U.T. Chandigarh, seeking security in the present case as she apprehends threat to her life and liberty. It is informed that no action was taken thereon by the U.T. Administration. The learned counsel submits that there is every possibility that the petitioners might intimidate the complainant and influence the course of trial if they are enlarged on bail.

6. The learned Senior counsel appearing on behalf of the complainant has also opposed the present petitions. It is submitted that the complainant is a housewife having two children. She has no previous enmity with any of the accused. She has also been receiving threats in this case. The learned Senior counsel, thus, prays for dismissal of the present petitions.

7. I have heard learned counsel for the parties and considered the rival contentions.

8. In *State through CBI v. Amarmani Tripathi*, 2005(4) R.C.R. (Criminal) 280, the Hon"ble Apex Court has held as under:--

"It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (see *Prahlad Singh Bhati Vs. N.C.T. Delhi and Another*, AIR 2001 SC 1444 : (2001) CriLJ 1730 : (2001) 2 Crimes 87 : (2001) 1 DMC 669 : (2001) 4 JT 116 : (2001) 2 SCALE 572 : (2001) 4 SCC 280 : (2001) 2 SCR 684 : (2001) AIRSCW 1263 : (2001) 2 Supreme 550 and *Gurcharan Singh and Others Vs. State (Delhi Administration)*, AIR 1978 SC 179 : (1978) CriLJ 129 : (1978) 1 SCC 118 : (1978) SCC(Cri) 41 : (1978) 2 SCR 358 . While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. We may also refer to the following principles relating to grant or refusal of bail stated in *Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Another*, AIR 2004 SC 1866 : (2004) CriLJ 1796 : (2004) 3 JT 442 : (2004) 3 SCALE 257 : (2004) 7 SCC 528 : (2004) AIRSCW 5465 : (2004) AIRSCW 1581 : (2004) 7 Supreme 461 : (2004) 4 Supreme 84 :

"The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

- a. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.
- b. Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.
- c. Prima facie satisfaction of the court in support of the charge.

(see Ram Govind Upadhyay Vs. Sudarshan Singh and Others, AIR 2002 SC 1475 : (2002) CriLJ 1849 : (2002) 2 Crimes 15 : (2002) 3 JT 185 : (2002) 3 SCALE 12 : (2002) 3 SCC 598 : (2002) 2 SCR 526 : (2002) AIRSCW 1342 : (2002) 2 Supreme 457 and Puran Vs. Rambilas and Another etc. etc., AIR 2001 SC 2023 : (2001) CriLJ 2566 : (2001) 2 Crimes 283 : (2001) 2 DMC 1 : (2001) 5 JT 226 : (2001) 3 SCALE 695 : (2001) 6 SCC 338 : (2001) 3 SCR 432 : (2001) 2 UJ 875 : (2001) AIRSCW 1935 : (2001) 3 Supreme 685 ."

9. The petitioners have allegedly hatched a conspiracy for obtaining the bribe amount for DSP Ram Chander Meena and Surinder Kumar, Sub Inspector, EO Wing, co-accused, through petitioner Sanjay Dahuja. Petitioner-Aman Grover had involved himself in negotiation in order to strike a compromise in the cross FIR registered at the behest of his mother-in-law, Smt. Deepa Duggal, to reap some financial benefit. It appears, prima facie, that petitioner Aman Grover, obtained a post-dated cheque amounting to Rs. 30.00 lacs from the present complainant, Guneet Kaur and also the bribe money of Rs. 40.00 lacs for and on behalf of co-accused police officers, through petitioner-Sanjay Dahuja. Cash amount of Rs. 40.00 lacs and post-dated cheque, worth Rs. 30.00 lacs were purportedly recovered from their possession. The I.O. has collected materials to demonstrate before this Court that they demanded and accepted the bribe for and on behalf of the police officers to get the matter in FIR No. 375 (ibid) finally compromised and not to oppose the compromise in a Court of law. The conversation with regard to the demand and acceptance of the bribe money was duly recorded in DVR. It also appears from the records that both the petitioners have played an active role for the settlement of the amount of bribe in collusion with co-accused DSP Ram Chander Meena. A copy of the transcript of the conversation so recorded, furnished by the learned counsel for the respondent-CBI in the Court, is taken on record as Mark "A".

10. Evidence of the complainant and other material witnesses is yet to be recorded during the course of trial. If the petitioners are allowed bail, there are ample chances of tampering with the prosecution evidence and influence the witnesses. The co-accused, Ram Chander Meena is a Deputy Superintendent of Police, while co-accused Surinder Kumar is a Sub Inspector, in the U.T. Police. This Court is not oblivious of the fact that the petitioners' right to liberty deserves to be respected. But at the same time, the justice delivery system is under obligation to ensure that the cause of justice is not sabotaged by exhibiting misplaced sympathy and compassion towards the reported manipulators, wielding influence in the society, in collusion with corrupt officials. The inaction of the administration on the application dated 01.09.2015, Annexure R-1, moved by the complainant before the Advisor, U.T. Chandigarh, clearly stating that on account of the present case, she apprehends threat to her life and liberty at the hands of the petitioners/accused is suggestive of the fact that the petitioner being persons of resources wield sufficient influence in society as well as in the U.T. Administration.

11. The gravity of the offence and the manner in which it was designed to be executed not only exposes the hollowness of the investigating agency but is also a pointer as to how the well connected influential people in the system have connived with each other to fleece the complainant and erode the faith of the common man in the system of police administration.

12. There is no dispute about the law laid down in Sanjay Chandra's case (supra) but considering the status and position of the accused discussed above, I am of the considered view that the very process of trial may be adversely influenced, if the prayer to enlarge the petitioners on bail, is accepted.

13. In view of the above discussion, the present petitions are hereby dismissed.

14. However, the observations made above are only for the purpose of deciding the present petitions and shall not be construed as an expression of opinion, on the merits of the present case.