

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Reserved on : 30.11.2022

Pronounced on : 02.12.2022

Bail App No. 398/2022

CrIM No. 2010/2022

Rohit Sharma

....Petitioner/Appellant(s)

Through :- Mr. Sunil Sethi, Sr. Advocate with
Mr. Parimoksh Seth, Advocate.

V/s

UT of J&K

....Respondent(s)

Through :- Mrs. Monika Kohli, Sr. AAG.

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER

1. By reference to FIR no. 02/2022 of the Police Station, Anti-Corruption Bureau, Rajouri (camp Jammu), the petitioner has come to be arrested on 14.11.2022 after being allegedly caught red handed in the course of an alleged trap laid by the trap team of the Anti Corruption Bureau, while accepting bribe amounting to Rs. 50,000/- from one Sominder Singh @ Sourav S/o Late. Sh. Darshan Singh, R/o Village Nari, Tehsil R. S. Pura, Jammu.
2. The petitioner was posted as Tehsildar Bahu, Jammu at the time of the alleged trap. The alleged background for the alleged transaction of bribe demand and giving is related to issuance of fard from the petitioner sought by the complainant, namely, Sominder Singh @ Sourav. The petitioner has come to be

arrested for the alleged commission of offence under section 7 of the Prevention of Corruption Act, 1988.

3. The trap laying team was headed by Dy. SP-Sunny Gupta of Police Station, ACB Rajouri (camp Jammu) and it is the same very Officer who has come to be entrusted with and seized of the investigation of the FIR in question which in itself is a contradiction of some nature.

4. Be that as it may be, the petitioner has suffered police custody tenure and is now in judicial custody. The investigation with respect to the trap led incident is very specific to the occasion in which the petitioner came to be allegedly found demanding and accepting the alleged bribe amount. The custody of an accused before the trial of the case is not meant to be of and for punitive purpose but only for the purpose of serving the investigation of the case, which in the present case as per the fresh objections filed on behalf of the respondent by the recall of the objections first filed in the case, is over. This Court sees no justification for further custody of the petitioner which is not going to serve in any manner whatsoever the investigation official of the case by the Investigating Authority of the Police Station, Anti-Corruption Bureau, Rajouri (Camp Jammu). The petitioner is a public servant and, as such, there is no question of his escaping from the reach of law or tempering with the evidence in the case.

5. It seems that even the Anti-Corruption Bureau, Rajouri (Camp Jammu) is conscious of the fact that the custody of the petitioner in reference to FIR under investigation might not enjoy any further extension from the court of law and, as such in order to lend a more serious note to the case, the respondent in its fresh objections have come forward with the plea that the petitioner is also under enquiry for disproportionate assets. It is not understandable as to how in the FIR

relating to trap case the fact of enquiry against the petitioner for alleged disproportionate assets has any bearing except as an attempt to put off the indulgence of the Court in considering the grant of bail in favour of the petitioner.

6. The petitioner has come to seek the bail after his bail application filed before the Court of Special Judge, Anti Corruption, Jammu came to be rejected vide an order dated 21.11.2022 passed on file no. 1611/2022. From reading of the said order, the Special Judge, Anti Corruption, Jammu seems to have been weighed down by the fact that by reference to FIR no. 02/2022 which has been registered only for the incident of demand of bribe from the complainant by the petitioner, the Investigation Officer is stretching the investigation to case of alleged disproportionate assets against the petitioner. The Special Judge, Anti Corruption, Jammu deemed the stage of the investigation warranting no bail to the petitioner without attending the case from the perspective as to whether with respect to the commission of offence alleged in the FIR no. 02/2022, there was any purpose for the continuing custody of the petitioner by the arresting authority.

7. Be that as it may be, a successful prosecution of a criminal case in a court of law is based upon quality of police investigation with respect to the facts and circumstances of the case attending the commission of offences and not by length of continuing custody of a suspect or an accused during the course of investigation. An investigation authority is bound to show and demonstrate on factual basis as to how if an accused is admitted to bail in a case before finalization of police investigation and consequent presentation of police report under section 173 Cr. P.C, 1973, the investigation work is likely to suffer

hurdles/obstacles to the prejudice of taking the investigation to the truth of the matter. Just by sound effects of expressions that the bail granted will jeopardize/undermine investigation may not suffice to deny bail to an accused under custody at the hands of the Police.

8. In the background of the aforesaid case is made for admission of the petitioner to bail and as such, the petitioner is admitted to bail subject to the following terms and conditions:

- a) **That the petitioner shall make himself available for the investigation purpose as and when required, by the Investigating Officer;**
- b) **That the petitioner shall furnish personal bond to the amount of Rs. 1,00,000/- with one surety of the like amount before the Investigating Officer.**
- c) **That the petitioner shall not directly or indirectly make any attempt to interfere and intermeddle in many manner whatsoever in the cause of investigation in the case and shall not attempt to temper with witnesses in the case.**
- d) **That the petitioners shall not leave the UT of J&K without the prior written permission of the Investigating Officer.**

9. Bail application stands disposed of, accordingly.

(RAHUL BHARTI)
JUDGE

JAMMU
02.12.2022
Shivalee