



CRM-M-17876-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-17876-2024

Reserved on: 02.05.2024

Pronounced on: 28.05.2024

Naveen

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. A.D.S.Sukhija, Advocate for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
08	07.03.2024	ACB, Karnal District Anti-Corruption Bureau, Haryana	384, 120B IPC and Sections 7/7A of PC Act 1988

1. The petitioner Naveen, posted as a Clerk with Nodal Officer Panipat, Haryana, under "The Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994", [PNDT Act], apprehending arrest in the FIR captioned above, on the allegations that (petitioner-accused) in collusion with Dr. Pawan Kumar Nodal officer, demanded bribe of Rs. 2 lacs from complainant through Vishal Malik of Aadhar Hospital Panipat to settle the notice issued to the complainant doctor, under PNDT Act, has come up before this Court under Section 438 CrPC seeking anticipatory bail.

2. Vide order dated 10.04.2024, this Court had granted interim bail to the petitioner and the said order is continuing till date.

3. Prosecution's case is being taken from the reply dated 19.04.2024 filed by the concerned DySP, relevant portion of the same reads as follows: -

*"(2). That the petitioner has concealed the true and material facts from this Hon'ble High Court. The true facts of the case are that Naveen, Clerk (petitioner-accused) in collusion with Dr. Pawan Kumar Nodal officer (co-accused) was demanding bribe money of Rs. 2 lacs from complainant through Vishal Malik of Aadhar Hospital Panipat in lieu of settling the notice.*

*On 07-03-2024, the complainant Dr. Sanjeev Chhabra S/o Rajender*



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*Chhabra R/o Village Kalayat, District Kaithal handed over his complaint to Inspector Sube Singh, Anti Corruption Bureau, Unit Kaithal wherein he had alleged that he was running an Imaging and Diagnostic Centre at Barsat Road, Panipat. In year 2023, co-accused Dr. Pawan Kumar, Nodal Officer PNDDT and Naveen Kumar (petitioner- accused) dealing clerk, Civil Hospital, Panipat had checked F-Forms (patient forms) in their centre and they issued him notice by deliberately creating errors with the intention for taking bribe. When complainant met Dr. Pawan, then he told complainant to meet Naveen Kumar, dealing clerk in this regard. Thereafter, complainant met with petitioner-accused and he (Naveen) told complainant to pay Rs. 3,00,000/- bribe money, as per instruction given by co-accused Dr. Pawan Kumar, this amount had been showed to Dr. Sanjeev Chhabra by petitioner-accused by writing this in calculator. Thereafter, complainant gave reply to notice in December, 2023 but showed his inability to pay the said bribe amount upon which Dr. Pawan Kumar and Naveen Kumar had threatened the complainant that if bribe amount is not paid, then they will falsely implicate him (complainant) in PC & PNDDT cases, due to this complainant met Naveen Kumar clerk, a week ago and he informed him that this case is now no longer in the hands of the Nodal Officer alone and it will be decided by the committee now and demanded Rs. 3,00,000/- bribe money from complainant. Thereafter, on request of complainant, Naveen typed the bribe amount of Rs. 2,20,000/- on calculator and showed it to him and when he said that even this is too much, than Naveen told him that he will talk to Nodal officer. Thereafter, Naveen typed Rs. 2,00,000/- as bribe amount on his calculator with the assurance that the matter will be settled but he didn't want to pay the bribe money to Dr. Pawan Kumar, Nodal officer and Naveen Clerk, hence, the present Case FIR No. 8 dated 07-03-2024 was registered u/s 7. 7A, PC Act 1988 and 384, 120-B IPC in Police Station, Anti Corruption Bureau, Karnal Range, Karnal.*

*(3). That thereafter, the Superintendent of Police Anti Corruption Bureau, Karnal appointed Sh. Naveen Kumar Assistant Town Planner, Panipat as Gazetted Officer upon which the Gazetted Officer /Independent witness further appointed Sh. Tantripal, driver, O/o ATP, Panipat as Shadow Witness. Raiding team was constituted and after applying Phenolphthalein powder on currency notes of Rs. 2,00,000/- the said notes were handed over to the complainant Dr. Sanjeev Chhabra who was instructed to talk with Naveen Kumar, Clerk, Civil Hospital, Panipat for his work and on raising his demand, the complainant was instructed to hand over Rs. 2,00,000/- tainted money to Naveen (petitioner- accused). During this, complainant asked the inspector that he had received an information from Naveen to give the bribe amount to Vishal Malik, Managing Director, Aadhar Hospital, Panipat in his hospital. The Shadow witness was also instructed to see and hear the*



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*conversation between complainant and accused and was further directed to give the appointed signal to the raiding team. List of Currency notes, memo of handing over the notes and the search memo etc, were prepared.*

*Thereafter, the complainant and shadow witness proceeded to meet Vishal Malik and after some time the complainant the shadow witness acted accordingly and thereafter, Vishal Malik (co-accused) was apprehended inside the cabin of the Aadhar Hospital, Panipat. Upon asking him to produce the bribe money, Vishal Malik told that he had handed over the bribe money of Rs. 2,00,000/- to his employee namely Paras for keeping its safely in a particular place in a Hospital.*

*Thereafter, Vishal Malik was arrested in the present case and he voluntarily suffered his disclosure statement (Annexure R-1) and disclosed that he took the bribe money from complainant upon asking of Naveen dealing clerk (petitioner-accused) and his share was 10 percent out of it whereas 20 percent share was of petitioner Naveen and rest was of Dr. Pawan Nodal Officer and further offered to get the same recovered.*

*Thereafter, in pursuance of his disclosure statement, Vishal Malik got recovered the bribe/tainted money from his Aadhar Hospital alongwith employee Paras which was taken into possession vide separate recovery memo (Annexure R-2). The hands of the complainant, Vishal Malik and Paras were got washed separately and the solution thereof turned light pink. The currency notes, nips of hand washes were converted into sealed parcels and were taken into possession vide separate recovery memo's which were also signed by the respected witnesses. Site plan of the place of occurrence and recovery were also prepared. The investigating officer also took into possession One DVR along with adaptor and mobile of co-accused Vishal Malik vide separate recovery memos and recorded the statements of witnesses u/s 161 Cr.P.C.*

*(4). That during the course of investigation on 08-03-2024. complainant Dr. Sanjeev Chhabra and Paras produced the audio recording device and mobile phone, respectively, before the investigating officer, wherein demand of bribe/conversation was recorded among the complainant Dr. Sanjeev Chhabra and accused persons viz Vishal Malik (co-accused) and Naveen (petitioner-accused), upon which the investigating officer with the help of HC Pawan Kumar ACB, Unit Kaithal, prepared two CD's and its transcript in Hindi and after converting the CD's into a separate sealed parcels, the audio CD's, its transcripts (Annexure R-3 to R-13) and certificates u/s 65-B, Evidence Act were taken into possession vide memo, which was signed by respective witnesses. The investigating officer also recorded the statement of witnesses u/s 161 Cr.P.C on even dates.*

*(5). That on 08-03-2024, the investigating officer also recorded the*



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*statements u/s 164 Cr.P.C. of Dr. Sanjeev Chhabra and Paras before Ld. JMIC, Panipat, who fully corroborated the prosecution version.”*

4. Mr. A.D.S. Sukhija, the petitioner’s counsel, argued that the petitioner is a first offender, and his clean record would justify his anticipatory bail. He further submitted that prosecution itself is doubtful because the inspection was conducted on 24-Aug-2023, and after that, show cause notice was issued on 23-Nov-2023 and in January 2024, the Committee had already taken a decision; therefore, there was no occasion for the complainant to file a complaint on 07-Mar-2024, which shows that it was a result of malaise. Petitioner’s counsel further argued that the show cause notice had already been issued, the complainant’s center had been closed for one month, nothing had to be done during the inspection, and there was no occasion to demand money. Consequently, the present complaint is a counterblast to settle scores.

5. Mr. Vikrant Pamboo, Sr. DAG, Haryana, the People’s counsel, countered such arguments and submitted that the accused, Dr. Pawan Kumar, Nodal Officer, and Naveen Kumar, who was the dealing Clerk, were the active participants, demanded bribe from the petitioner, and money was also recovered from their cohorts Vishal Malik and his associate, which prima facie establishes their involvement in this nefarious plot.

6. To analyse these arguments, it would be appropriate to refer to para 10 of the reply which reads as follows: -

*“(10). That the investigating officer, after preparing a questionnaire, has asked the petitioner as many as 17 question whereas the petitioner has not cooperated and gave vague replies to them. The petitioner has not disclosed the conspiracy of the present case. However, the petitioner handed over his mobile phone (without sim card) and WhatsApp screen shots (7pages) to the investigating officer and the same were taken into possession vide separate recovery memo.*

*Further it was revealed that the petitioner-accused had conversed roughly about 90 times through WhatsApp calls with complainant Dr. Sanjeev Chhabra. Also the petitioner- accused from his mobile no. 98122-92222 had conversed with co-accused Vishal Malik 8 times on his mobile phone number 98129-02124 and reciprocally Vishal Malik had conversed with petitioner-accused 6 times on his above said mobile number.”*

7. The petitioner had no purpose to make ninety phone calls to the complainant. The prosecution has annexed the transcript of call details between Dr. Sanjeev Chhabra and the petitioner. The prosecution has also annexed call details between Dr. Sanjeev Chhabra and the accused Vishal Malik and petitioner Naveen Kumar. Annexure R-5 contains the details of a transcript of the recording of negotiations of bribe amount



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from 2.20 lacs to 2 lacs, wherein the complainant explicitly mentioned that he needs time to pay Rs. Two lacs. There were no reasons for the petitioner to demand Rs 2,00,000 from the complainant, more so when the inspection of the complainant's clinic was the primary purpose of the petitioner and Nodal Officer's employment.

8. Further, in the transcript annexed as Annexure R-6, the complainant mentions that he will give Rs.20,000/- within one or two days, and the mode of payment is cash. In the transcript at Annexure R-9, the complainant is conveying to the petitioner that he can only pay the amount ranging between 40-50 thousand and refers to 40-50. In Annexure R-11, the conversation states that the petitioner mentioned Vishal Malik from Aadhar Hospital as the person to whom money must be paid. These massive calls highlight his complicity and corroborate the complainant's allegations about the demand for money and its subsequent recovery from the agent, Dr. Pawan Kumar, and the petitioner. A perusal of these conversations and the recovery of money from Vishal Malik's hospital through his agent Mr. Paras, the prosecution has collected sufficient evidence that prima facie points toward the petitioner's involvement, and he is not entitled to anticipatory bail.

9. The petitioner is also not entitled to bail on parity because the bail of the co-accused is a regular bail filed under section 439 CrPC, and the parameters while granting a regular bail are different than the anticipatory bail.

10. There is another reason to deny anticipatory bail to the petitioner. The petitioner's job was to keep an eye on the clinics that had licenses to conduct ultrasound, and such machines were under the provisions of the PNDT Act. Through ultrasound scans and amniocentesis, the sex of the foetus can be determined during the pregnancy of the woman and then the foetus is aborted if found to be female<sup>1</sup>. There are widespread whisperings of misuse of such ultrasound machines in many areas, for sex determination, which lead to female feticide. The misuse of technology simply reinforces the secondary status given to girl children in such a way that they are culled out even before they are born.<sup>2</sup>

11. The harsh, shameful, and repulsive ground reality is a falling female proportion in the population. Studies suggest that in India, men and women across all wealth strata, education groups, castes, tribes, religions, and states have a preference for sons. For example, 81% of ever-married women and 74% of ever-married men wanted at

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<sup>1</sup><https://magazines.odisha.gov.in/Orissareview/2008/December-2008/engpdf/8-17.pdf>

<sup>2</sup><https://magazines.odisha.gov.in/Orissareview/2008/December-2008/engpdf/8-17.pdf>



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least one son, and a quarter of men and women wanted more sons than daughters<sup>3</sup>. In the absence of social security or Universal basic Income, patrilocality and patrilineality are the major reasons for such preference. Female foeticide is perhaps one of the worst forms of violence against women where a woman is denied her most basic and fundamental right i.e “the right to life”.<sup>4</sup>

12. A reference to the National Sample Survey Office, 2017, posted by the Ministry of Statistics and Programme Implementation<sup>5</sup>, Government of India, data of per cent Share of Female Population in Total Population and Sex Ratio suggests horrific numbers. As per this data, in 2011, the female population ratio in India was 943 females compared to 1000 males, whereas in Haryana there were only 879 females in comparison to 1000 males. Similarly, Lok Sabha Secretariat Parliament Library and Reference, Research, Documentation and Information Service (Larrdis) Members’ Reference Service Reference Note No. 32/Rn/Ref./October/2015<sup>6</sup>, suggests that in 2011, the global female population ratio was 984 to 1000 males, whereas in India, the female ratio was 940 to 1000, and in Haryana it was 885. However, there has been a steady increase, and as per the latest data of World bank<sup>7</sup> webpage, the female ratio is 48.4%. This global team effort cannot be permitted to be sabotaged by the corrupt government employees.

13. There cannot be any rationale to condemn and discriminate one human against another human on the basis of their gender. A society where the practice of female foeticide is not looked down upon, not acted upon, not curbed, would further deny equal status to equal human beings just because of one’s inherent, natural, biologically given gender. In a society like ours, many consider males as an asset and females as a liability for the family because of millenniums old, deep conditioning of male superiority, which is depicted by ‘son preference’ amongst the members of our society. Today the globe is witnessing the revolution of not only Information Technology but also of artificial intelligence, which has been a great gender leveller for all humans. Thus, those who, for their small monetary gains misuse such sensitive positions, not only betray the trust the system has reposed in them, being on such responsible and powerful positions, but also fail the society, making their conduct highly unethical, immoral and reducing them to the status of lowest kinds of human beings.

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<sup>3</sup>IIPS and Macro International. National Family Health Survey (NFHS-3), 2005–06: India: Vol-I, International Institute for Population Sciences and Macro International; Mumbai: 2007. [Google Scholar]

<sup>4</sup><https://magazines.odisha.gov.in/Orissareview/2008/December-2008/engpdf/8-17.pdf>

<sup>5</sup>[https://www.mospi.gov.in/sites/default/files/reports\\_and\\_publication/statistical\\_publication/social\\_statistics/WM17Chapter1.pdf](https://www.mospi.gov.in/sites/default/files/reports_and_publication/statistical_publication/social_statistics/WM17Chapter1.pdf)

<sup>6</sup>[https://loksabhadocs.nic.in/Refinput/New\\_Reference\\_Notes/English/Ratio\\_in\\_India.pdf](https://loksabhadocs.nic.in/Refinput/New_Reference_Notes/English/Ratio_in_India.pdf)

<sup>7</sup><https://data.worldbank.org/indicator/SP.POP.TOTL.FE.ZS?locations=IN>



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14. Some corrupt government employees put those doctors running diagnostic centers under the PNDT Act under the threat of being wrongly prosecuted under the stringent provisions of the act and under such garb extort money. Reports suggest that a large number of unethical gangs also approach some of these diagnostics centers, and under one pretext or other, they make payment of money for illegal sex determination and they also make video recordings of such conversations and subsequent tests. Based on such evidence, they blackmail these unethical people and doctors and further extract and extort massive money. Instead of checking and putting an end to such practices and such unethical practitioners and such gangs, who are extorting money from those doctors who agree to disclose gender and pregnancy status under pressure or because of the greed of money, certain corrupt employees at such highly sensitive and noble posts, very lightly, shrug off their principal duties. The Nodal Agencies under the PNDT are supposed to work with the highest standards of morality, with a strong and unshakeable sense of responsibility, and have to be bold enough to work towards curbing female foeticide, which has led to falling female-gender ratio in the North Indian population. When officials at such responsible, sensitive, powerful positions, instead of proudly shouldering their responsibilities, pawn off their morals, their honour, their duties; for illegal financial gains, the society needs to get alarmed. Protecting the life of our future generation is not only one of the most fundamental duties of the legal system but also of the world at large and such a pivotal constitutional duty cannot be callously brushed away, as it is our dignity itself, which is at stake.

15. Given above, the Courts are also under an obligation to be extra cautious while granting bail to the corrupt government employees and these gangs, as well as the doctors who indulge in these unsensitized, unethical, immoral activities, while granting bail.

16. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

17. In *Sumitha Pradeep v Arun Kumar CK*, 2022 SCC OnLine SC 1529, Supreme Court holds,

[16]. ... We have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be anticipatory bail.



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The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

18. In State of Gujarat v. Mohanlal Jitamalji Porwal (1987) 2 SCC 364, Supreme Court holds,

[5]. ....The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest....."

19. In State rep. by CBI v. Anil Sharma, (1997) 7 SCC 187, Supreme Court holds,

[6]. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.

20. In Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379, Supreme Court holds,

[19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. [See D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434, State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213 and Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305].





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21. In Y.S. Jagan Mohan Reddy v. CBI (2013) 7 SCC 439, Supreme Court holds,

[34]. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

[35]. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.

22. In P. Chidambaram v. Directorate of Enforcement, 2019 9 SCC 24, Supreme Court holds,

[70]. We are conscious of the fact that the legislative intent behind the introduction of Section 438 Cr.P.C., 1973 is to safeguard the individual's personal liberty and to protect him from the possibility of being humiliated and from being subjected to unnecessary police custody. However, the court must also keep in view that a criminal offence is not just an offence against an individual, rather the larger societal interest is at stake. Therefore, a delicate balance is required to be established between the two rights - safeguarding the personal liberty of an individual and the societal interest. It cannot be said that refusal to grant anticipatory bail would amount to denial of the rights conferred upon the appellant under Article 21 of the Constitution of India.

23. In Central Bureau of Investigation v. Santosh Karnani, Cr.A 1148 of 2023, dated 17-04- 2023, Supreme Court, in an FIR registered under sections under Sections 7, 13(1) and 13(2) of the Prevention of Corruption Act, 1988, holds,

[24]. The time-tested principles are that no straitjacket formula can be applied for grant or refusal of anticipatory bail. The judicial discretion of the Court shall be guided by various relevant factors and largely it will depend upon the facts and circumstances of each case. The Court must draw a delicate balance between liberty of an individual as guaranteed under Article 21 of the Constitution and the need for a fair and free investigation, which must be taken to its logical conclusion. Arrest has devastating and irreversible social stigma, humiliation, insult, mental pain and other fearful consequences. Regardless thereto, when the Court, on consideration of material information gathered by the Investigating Agency, is prima facie satisfied that there is something more than a mere needle of suspicion against the accused, it cannot jeopardise the investigation, more so when the allegations are grave in nature.

[31]. The nature and gravity of the alleged offence should have been kept in mind by the High Court. Corruption poses a serious threat to our society and must be dealt with iron hands. It not



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only leads to abysmal loss to the public exchequer but also tramples good governance. The common man stands deprived of the benefits percolating under social welfare schemes and is the worst hit. It is aptly said, "Corruption is a tree whose branches are of an unmeasurable length; they spread everywhere; and the dew that drops from thence, Hath infected some chairs and stools of authority." Hence, the need to be extra conscious.

24. In the background of the allegations and the light of the judicial precedents mentioned above in the facts and circumstances peculiar to this case, the petitioner fails to make a case for anticipatory bail.

25. Any observation made hereinabove is neither an expression of opinion on the case's merits, neither the court taking up regular bail nor the trial Court shall advert to these comments.

**Petition dismissed. Interim orders, stand vacated.** All pending applications, if any, also stand disposed.

(ANOOP CHITKARA)  
JUDGE

28.05.2024  
anju rani

Whether speaking/reasoned: Yes  
Whether reportable: YES.