

***In the Court of Bishan Saroop(PB0449)
Addl. Sessions Judge , Tarn Taran***

CNR no.PBTT01003365/2019

BA No.408 dated 05.07.2019

Registration No. BA/1760/2019.

Date of Decision : 15.07.2019

ASI Surinder Kumar son of Moti Ram resident of house no.285, Kazian Wala Chownk, Ward no.6, Patti Tehsil Patti District Tarn Taran.

-----Applicant-Accused.

Versus

State of Punjab

FIR No.12 dated 11.06.2019, U/s 7
Prevention of Corruption Act, registered
at Police Station Vigilance Bureau,
Amritsar.

Bail Application 439 Cr.P.C

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Present - Mr. Gurmit Singh, Adv. counsel for the applicant.
Mr. Amarpal Singh, Addl. Public Prosecutor for the State.

BAIL ORDER

Vide this order I shall of the instant application for regular bail filed by the above referred applicant under Section 439 of Cr.P.C in case bearing FIR No.12 dated 11.06.2019, U/s 7 Prevention of Corruption Act, registered at Police Station Vigilance Bureau, Amritsar.

2) In pursuance of notice of the application having been issued, learned Addl. Public Prosecutor Mr. Amarpal Singh for the State has put in appearance. Record has also been produced.

3) Tersely put, the present FIR was registered on the basis of statement suffered by Balwinder Singh son of Milkha Singh resident of village Mari udoke Tehsil Patti District Tarn Taran on the accusation that the applicant-accused being public servant i.e. ASI of Punjab Police having demanded a sum of ₹ 10,000/- as illegal gratification and accepted Rs.5000/- from complainant Balwinder Singh for illegally showing favour to him.

4) Learned Counsel Mr. Gurmit Singh, Adv. for the applicant has vehemently argued that the applicant has been falsely implicated in the present case with ulterior motive by the complainant. The applicant was arrested on 11.06.2019 and has been remanded to judicial custody and has been lodged in jail following a request made by the vigilance to remand the applicant in judicial custody. It has further been argued that nothing is to be recovered from the applicant and the alleged recovery has already been effected and no useful purpose is going to be served by keeping the applicant inside the jail. It has further been argued that the applicant is in custody since the date of his arrest, which was effected on dated 11.06.2019 and further it is all a matter of evidence with regard to the alleged demand, acceptance or recovery, if any, but at this stage keeping the applicants behind bars shall serve no useful purpose. With these submissions, prayer has been made for releasing the applicant on bail by allowing this bail application.

5) On the other hand, learned Addl. P.P. Mr. Amarpal Singh for the State has hotly opposed the contentions and has argued that in the light of the grave and serious allegations as put up by the complainant Balwinder Singh that the accused ASI Surinder Kumar had asked the complainant to pay a sum of ₹ 10,000/- in order to illegally prevent him

from needed legal action and out of said sum of ₹ 5,000/- was paid by complainant to the Balwinder Singh who is helper of accused ASI Surinder Kumar which was recovered from the them which was with the complainant. He has argued that there is every likelihood that the applicant might tamper with the prosecution evidence. The application for bail be dismissed.

6) After giving my thoughtful consideration to the rival submissions and on careful perusal of the averments put up in the application, contents of the FIR, record so produced, coupled with due assistance rendered, the court finds merits in the submissions put forth by the learned Counsel Mr. Gurmit Singh, Adv. for the applicant. It is pertinent to mention that as per the complainant, the accused ASI Surinder Kumar had allegedly demanded a sum of ₹ 10,000/- and on requests, the deal was struck off for a sum of ₹ 5,000/- which was paid to the accused. But, perusal of the case file reveals that the applicant was arrested on 11.06.2019 and he was sent to judicial custody. Recovery has already been effected and the fact regarding the demand, acceptance and recovery, it is all a matter of evidence. The ratio decidendi laid down in ***case titled as Ramesh Sehgal Versus State of Haryana 1997(2) RCR (Criminal) 78***, is squarely applicable to the facts of the present case. As per the guidelines laid down by the Hon'ble Apex Court in case titled as ***Sanjay Chandra Versus CBI 2012(1) SCC page 40***, it has been made abundantly clear that the object of bail is to secure the presence of the accused person at the trial. The object of bail is neither punitive nor preventive. The jurisdiction to grant bail has to be exercised on the basis of well settled principles having regard to the circumstances of the case, the nature of the accusation, the evidence to be led in support thereof, the severity of the

punishment, the character and behaviour of the accused, reasonable apprehension of tampering with the evidence, reasonable possibility of securing the presence of the accused during the trial, the larger interest of the public and the State. Thus, when the above said yardsticks are applied to the case in hand, the court finds merit in the submissions put forth by the learned Counsel for the applicant. The application for bail filed on behalf of the applicant Surinder Kumar ASI is hereby allowed. The criminal liability if any against the applicant can be determined after holding of regular trial. Thus, no useful purpose will be served by keeping the applicant behind bars for an indefinite period. Hence, without expressing even a single word upon the merits of the present case, the applicant ASI Surinder Kumar is hereby admitted to bail on his furnishing the bail bonds in the sum of ₹50,000/- with one surety in the like sum, to the satisfaction of learned Illaqa/Duty Magistrate with the directions that the applicant shall not leave the country without prior permission of the court and shall not tamper with the prosecution evidence even to the slightest. Bail applications papers be consigned to the record room.

Announced on : 15.07.2019

Aman Dhiman
Stenographer Gr.III

Bishan Saroop,
Special Judge-ASJ
Tarn Taran(PB0449)

BA/1760/2019

ASI Surinder Kumar Vs State of Punjab

Present - Mr. Gurmit Singh, Adv. counsel for applicant.
Mr. Amarpal Singh, Addl. P.P. for the State.

Arguments heard and vide my separate detailed order of even date, the instant bail application is allowed, as detailed therein. Bail applications papers be consigned to the record room.

Announced on : 15.07.2019

Aman Dhiman
Stenographer Gr.III

Bishan Saroop,
Special Judge-ASJ
Tarn Taran(PB0449)