

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

Reserved on : 23.02.2021

Pronounced on: 26.02.2021

Bail App No.39/2021

Darbara Singh

...Applicant(s)

Through:- Mr. Rohit Sharma, Advocate

V/s

Union Territory of J&K

...Respondent(s)

Through:- Mr. Monika Kohli, Advocate

**Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE**

**JUDGMENT**

1. This is an application for grant of bail in FIR No.RC0042021A003 registered by the Central Bureau of Investigation against the applicant for commission of offence under Section 7 of the Prevention of Corruption Act, 1988 on the basis of a complaint lodged by one Anju Devi and Sangara Ram, Proprietor M/s Para Security Services. As per the respondent-CBI, a complaint was lodged by Anju Devi, an employee of Para Security Services that the applicant Darbara Singh, Deputy Director, Employees State Insurance Corporation (ESIC), Shastri Nagar, Jammu demanded bribe of Rs.2.00 lakh for reducing the penalty amount against their firm. The complainant and Sh. Sangara Ram expressed their inability to pay the said amount. The applicant, however, told them that, if they did not pay the bribe amount, the order against them would be finalized. The applicant also agreed to receive the bribe amount

in four installments of Rs.50,000/- each. The complainant paid an amount of Rs.50,000/- to the applicant on 13.01.2021, however, the applicant kept on pressuring and threatening the complainant for paying the balance amount. This made the complainant to approach the Superintendent of Police, CBI, ACB, Jammu with a complaint. It is claimed that verification of the complaint was carried out, wherein the demand of bribe of Rs.2.00 lakh by the applicant from the complainant was confirmed and, accordingly, a formal FIR was registered on 29.01.2021 under Section 7 of the Prevention of Corruption Act, 1988 against the applicant.

2. A trap was laid and the applicant was caught red handed on 29.01.2021 in his office premises by the trap party of CBI, ACB, Jammu while demanding and accepting the bribe amount of Rs.50,000/- from the complainant. The applicant was arrested at 7.15 pm on the said day and taken into custody. Searches at the office and residential premises of the applicant were carried out under proper authorization and during searches a cash of Rs.1,45,000/- was recovered from his Jammu residence and a sum of Rs.5,10,000/- was found in his residence at Chandigarh. The CBI team also found other documents related to investment in property i.e. Flat No.B-2, Dr. Ambedkar Co-operative House Building Society Ltd., Sector 76, Mohali and Plot Measuring 250 Sq Yards, RKM City, Sector-111-112, SAS Nagar, Mohali. The applicant moved an application for grant of bail before the Court of learned Special Judge Anticorruption (CBI Cases), Jammu [“the Trial Court”], which, after consideration, was rejected by the Trial Court on 04.02.2021.

3. Feeling aggrieved, the applicant is before this Court and seeks bail primarily on the ground that the custodial interrogation of the applicant is no more required, more so when he has already been remanded to the judicial custody. It is submitted that the applicant is a higher rung officer and has never been accused of any such offence previously and, therefore, there is no apprehension of the applicant fleeing from justice.

4. The application is resisted and opposed by the CBI, ACB. It is submitted that the case registered against the applicant is cast iron and would definitely entail conviction of the applicant. It is submitted that the applicant has been caught red handed by the trap party while demanding and accepting the bribe and has, thus, brought bad name to the organization, he is serving. The primary thrust of the arguments of learned counsel for the respondent is that the applicant being a higher rung officer, who, if released on bail, will be in a position to tamper with and influence the prosecution witnesses. It is urged that having regard to the fact that the investigation is at its infancy and many more skeletons are likely to tumble out of the cupboard, it is necessary to keep the applicant in custody for some more time. Buying the reasoning given by the Trial court while rejecting the bail application of the applicant, it is urged that the bail in the cases of corruption, which is so rampant in our Country and has eaten the vitals of Indian economy, is required to be considered on different parameters.

5. Heard learned counsel for the parties and perused the record.

6. The applicant is accused of serious corrupt practices and has been caught by the ACB red handed in a trap laid on the complaint of the complainant. While the applicant was in custody, the official and residential premises of the applicant were raised by the ACB in which not only cash of more than 6.00 lakh has been recovered but some property documents, too, have been found. From the investigation so far carried, it is prima facie come to fore that the integrity of the applicant is highly doubtful and he has been indulging in corrupt practices for long, though, he has been caught red handed for the first time. It is true that the investigation is still at its infancy and it is likely that some more evidence percolates during the course of further investigation. At this stage, keeping the petitioner at large could be detrimental to the investigation.

7. It is not in dispute that the applicant is a Deputy Director, posted in ESIC, Regional Office, Jammu and, therefore, exercises good amount of influence in his office. His coming out on bail, at this stage, is most likely to hamper the investigation. It could be either by tampering of records or by influencing the prosecution witnesses. The apprehension voiced by the respondent, therefore, cannot be said to be without any merit.

8. At this stage, it may be appropriate to recollect the broad principles for grant of bail laid down by Hon'ble the Supreme Court from time to time.

- i) While granting bail the Court has to keep in mind not only nature of accusation but the severity of punishment and the nature of evidence in support of accusation.

- ii) Reasonable apprehension of witnesses being tempered with or apprehension of threat for the complainant should also be a relevant consideration in the matter of grant of bail.
- iii) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

9. Reliance placed by the Trial Court on the judgment of **Avneesh Kumar Gupta v. CBI, 2017(2) RCR(Criminal) 232** is quite appropriate. The relevant extract of the judgment reproduced by the Trial Court in its order dated 04.02.2021 needs reproduction herein below, which reads thus:-

“The courts have to strike a reasonable balance between the societal interest and individual interest. When these interests are irreconcilable, societal interest must prevail. In a society governed by rule of law, there should be zero tolerance to corruption. Oft repeated arguments that if the accused has committed an offence, he will be convicted by the trial court, and therefore, he should be granted bail at the very first go, does not seem to be palatable/acceptable to corruption cases. One should not lose sight of the fact that those involved in the corruption are normally high and mighty, and therefore, may exercise their influence in scuttling the legitimate prosecution. The law should always help the

poor and needy, and not to those who are ever ready to sweep corruption under the carpet.”

10. Viewed, thus, I am in agreement with the respondent that the investigation, which commenced with the registration of FIR on 29.01.2021 is at its infancy and remaining the applicant at large, at this stage, is bound to provide an opportunity to the applicant to influence the course of investigation by tempering with the official records or influencing the prosecution witnesses. The respondent has found the cash and incriminating documents from the residential premises of the applicant and who knows there could be many more evidences yet to be collected by the Investigating Agency. Twenty five days is not too sufficient, a time to complete the investigation. This Court, therefore, finds it too early for the applicant to claim bail.

11. For the foregoing reasons, I am not inclined to grant bail to the applicant, at this stage. Accordingly, the application is dismissed. However, the applicant shall be at liberty to move fresh bail application once investigation in the matter is complete or there is undue delay in completion of the investigation.

**(Sanjeev Kumar)**  
**Judge**

JAMMU.  
26.02.2021  
Vinod.

Whether the order is speaking : Yes/No  
Whether the order is reportable: Yes/No