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**(2003) 07 P&H CK 0184**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Criminal Miscellaneous No. 28581-M of 2003

Gurcharan Singh Pherurai

APPELLANT

Vs

State of Punjab

RESPONDENT

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**Date of Decision:** July 21, 2003

**Citation:** (2003) 6 CriminalCC 450 : (2003) 4 RCR(Criminal) 116

**Hon'ble Judges:** K.S. Garewal, J; G.S. Singhvi, J

**Bench:** Division Bench

**Advocate:** Baldev Singh, with Mr. Arshvinder Singh, for the Appellant; Harbhagwan Singh, Advocate General, Punjab with Mr. Pardeep Singh, Public Prosecutor, for the Respondent

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**Judgement**

G.S. Singhvi, J.

The petitioner is an accused in F.I.R. 68 dated September 5, 2002 registered under the Prevention of Corruption Act, 1988 at Police Station, Vigilance Bureau, Patiala Range, Patiala in respect of alleged payment by him of a bribe of Rs.2.80 crores to then Chairman of the Punjab Public Service Commission, Ravinder Pal Singh Sidhu for the appointment of the petitioner's son Gurjit Singh as a Deputy Superintendent of Police. The case also involved alleged payments of huge bribes by Naresh Kumar and Gursharanbir Singh for selection as Deputy Superintendents of Police. The fifth accused in this case was Amardeep Singh son of Kala Singh.

2. Counsel for the petitioner has argued that the petitioner has been in custody for about eight months, his four other co-accused mentioned above were released on anticipatory bail by the learned Special Judge, Patiala on November 16, 2002. Thirty other persons who were also candidates and who had also allegedly obtained appointments through bribes were admitted to bail in F.I.Rs.64, 65, 66 and 67 which related to different categories of candidates but were essentially connected cases.

3. It has further been submitted that the petitioner is an accused in five other cases and in each one he has been admitted to bail. These cases are F.I.R. 65/September 5,2002 in which the petitioner was released on bail by Special Judge, Patiala on

January 29, 2003, F.1.R. 13/September 6, 2002 in which the petitioner was released on bail by Special Judge, Ludhiana on December 24, 2002, F.1.R. 120/September 23, 2002 in which the petitioner was released on bail by this court on April 9, 2003, F.1.R. 120/October 15, 2002 in which the petitioner was released on bail by Judicial Magistrate 1st Class, Ferozepur on January 2, 2003, F.I.R. 93/October 24, 2002 in which the petitioner was released on bail by also Judicial Magistrate 1st Class, Ferozepur on January 8, 2003.

4. According to the learned counsel the final report of the case was presented before Special Judge, Patiala on January 6, 2003 but so far charge has not been framed and consequently the trial has not commenced.

5. The State counsel was asked to assist the court to explain why the case was being unusually delayed. It was stated by him that charge could not be framed by the Special Judge as investigation regarding some other accused was still incomplete. The learned State counsel also submitted that he had contacted Superintendent of Police, Vigilance Bureau, Patiala to find out the cause of delay and to suggest a time schedule in which investigation would be completed but the Superintendent of Police did not indicate any time schedule. Consequently Superintendent of Police did not indicate any time schedule. Consequently Superintendent of Police was asked to appear in person in this Court and explain the long delay of six months in completing the investigation against the seven remaining accused but explanation was found to be untenable. Thereupon Learned Advocate General was asked to appear and assist the court. During the course of arguments no satisfactory reply was received from the learned Advocate General regarding the causes of delay in the commencement of the trial and the time likely to be taken to complete the remaining investigation and filing of the supplementary final report. All that he submitted was that there is a lot of work and a huge backlog which has caused delay. Investigators are busy in conducting other investigations which were ongoing and, therefore, it could not be said for certain as to how much more time would be required to file the supplementary final report and get the formal charge framed against the accused.

6. It is indeed a matter of concern that after cases were registered and investigated leading to arrest of 35 accused in F.I.Rs. 64-68 and release of all barring the petitioner on bail, the trial has not commenced even after six months of the presentation of the final report. The delay has been caused by the investigation which is in progress against seven other persons. It has been submitted that although the petitioner's case is not directly linked with the case of those seven persons who are being investigated, there was fear that the petitioner may influence witnesses and harm the investigation if released on bail. Therefore, bail to the petitioner should be declined.

7. The criminal justice system is a partnership or a team consisting of police investigators. Public Prosecutors, Trial Judge and Jail Superintendents with each of

them looking after different departments of the system-investigation, prosecution, trial and punishment. All departments have to function in unison if our criminal justice system is to succeed in punishing the criminal and setting the innocent free. Delay in the investigation can have a tendency to irretrievably damage the due process of law by delaying the trial. All the officers involved in operating the system owe a duty to the State and its citizens to ensure that the system runs like a well-oiled machine, if the system is defective in operation or suffers a break-down the blame invariably falls on the judge whereas it is often the investigator and/or the prosecutor who is the defaulting party. Therefore, within the system itself the investigator and the prosecutor also owe a duty to the Judge to ensure speedy investigation and trial.

8. The question which arises is whether the petitioner should continue to languish in custody when thirty four of his co-accused are on bail and he himself is on bail in five other cases. The magnitude of the petitioner's act of seeking jobs for his daughter Kuljit Kaur by paying Rs.70 lacs and for his son Gurjit Singh by paying Rs.2.80 crores (both Kuljit Kaur and Gurjit Singh are co-accused in the above mentioned bunch of cases) is such that the court should think many times before extending the benefit of bail to him but the State has not really come forward with any solid reasons to decline bail to the petitioners. The State was given ample opportunity to convince the court with regard to the delay which is occurring in the further investigation of the case but the explanations which were put forth were extremely unsatisfactory. We expected the State to put forth the details of investigations conducted after the final report was filed by disclosing the names of witnesses interrogated and documents collected to implicate the remaining seven persons in the case. No such thing was done. Under the circumstances there is no option but to accept this petition and release the petitioner on bail since there is no knowing at this stage when the supplementary report will be filed, charges framed and trial commenced.

9. This petition is accepted. Petitioner is admitted to bail. He shall be released on bail on his furnishing personal bonds with two local solvent sureties in the sum of Rs.5 lacs each to the satisfaction of the Special Judge, Patiala. The petitioner shall surrender his passport, if he has not already done so. The petitioner shall not try to tamper with the evidence or attempt to win over witnesses. In case he violates any of the conditions of bail or makes any attempt to interfere with the ongoing investigation or influences or pressurises witnesses, his bail shall be liable to be cancelled and he shall be taken into custody forthwith.