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**(2016) 06 P&H CK 0082**

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

**Case No:** CRM No. M-18165 of 2016 (O&M)

Joginder Singh Hooda

APPELLANT

Vs

State of Haryana

RESPONDENT

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**Date of Decision:** June 2, 2016

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 438
- Prevention of Corruption Act, 1988 - Section 7 13

**Citation:** (2016) 2 RajdhaniLR 243

**Hon'ble Judges:** Mr. Tejinder Singh Dhindsa, J.

**Bench:** Single Bench

**Advocate:** Mr. J.S. Bedi, Senior Advocate with Mr. Sunil Sihag, Advocate, for the Petitioner

**Final Decision:** Dismissed

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### **Judgement**

CRM No. 18254 of 2016

**Tejinder Singh Dhindsa, J. (Oral)**—Application is allowed, as prayed for.

2. Affidavit of the petitioner dated 27.05.2016 along with a newspaper report (The Tribune dated 03.02.2016) is taken on record as Annexure P-2.

3. Application disposed of.

CRM No. M-18165 of 2016

4. The present petition has been filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioner in case FIR No.11 dated 02.02.2016, under Sections 7/13 of the Prevention of Corruption Act, registered at Police Station SVB, Hisar.

5. FIR came to be registered at the instance of Mandhir Kaushik. Allegations are with regard to demand and acceptance of bribe to facilitate a recommendation and

up-gradation of the school that the complainant was running up to 10th standard. Learned Senior counsel would contend that the present petitioner who was serving as District Education Officer, Jind had never demanded or accepted any bribe from the complainant and the essential ingredients to constitute an offence under the Prevention of Corruption Act i.e. demand, acceptance and recovery are missing. Further contended that the documents that had been submitted by the complainant Mandhir Kaushik seeking recognition and up gradation of the school to 10th standard were not complete and accordingly the application was not processed. It has also been argued that decision to upgrade/recognise the school up to 10th standard was not within the domain of the petitioner and such matter had to be dealt with by a District Level Committee comprising of the Deputy Commissioner as Chairman, Additional Deputy Commissioner, Sub Divisional Officer (Civil) and District Education Officer in the capacity of members. Heavy reliance has also been placed upon the documents appended at Annexure P-2 to state that the petitioner is being falsely implicated and out of political vendetta. As per affidavit dated 27.05.2016 of the petitioner, telephonic calls had been received from Amrander Singh, Officer on Special Duty (OSD) to the Chief Minister, State of Haryana in the last week of December, 2015 as also in the last week of January, 2016 calling upon the petitioner to do the work of the complainant as regards recognition of the school. Petitioner has deposed in the affidavit that he had duly informed the OSD that the work would be done only after the application/file is complete in all respects. Contention raised is that under such circumstances, there would be no occasion to raise the demand of bribe. It has also been argued that the present political regime is inimical towards the petitioner and which would be apparent from the news item in the Tribune dated 03.02.2016 Annexure P-2 wherein it was reported that OSD Amrander Singh was himself present along with Special Investigation Team which had allegedly caught a Clerk of the Education Department red handed while accepting a bribe of Rs. 40,000/- from the owner of a private school i.e. the complainant.

6. Having heard learned Senior counsel at length and having perused the pleadings on record, this Court is not inclined to grant the concession of pre-arrest bail to the petitioner. Present petitioner was holding the Post of District Education Officer, Jind. Co-accused is Mani Ram i.e. the dealing hand and immediate subordinate to the petitioner. Complainant has asserted that he was running a school under the name of Hindu Vidya Mandir High School since the year, 2000 and it was recognised up to 8th standard. As per complainant, having completed all the necessary formalities to obtain recognition up to 10th standard, he had submitted the file in the office of District Education Officer, Jind. Precise allegations are that when the complainant met the petitioner, he was told to meet Mani Ram and only then his work would be done.

7. Having met Mani Ram (co-accused) as directed by the present petitioner, a demand of Rs. 40,000/- bribe was raised to get the file signed by the District Education Officer i.e. the present petitioner. As per allegations, Mani Ram had informed the complainant that District Education Officer would not process and sign the file unless bribe money is paid.

Complainant has still further alleged that he had met the District Education Officer, Jind i.e. the present petitioner on a number of occasions thereafter and on each occasion he was directed by the petitioner to meet Mani Ram and only then the file was to be processed. There is also the allegation that District Education Officer (present petitioner) and Mani Ram, Clerk are pressurising him to pay the bribe.

8. On such complaint, the case was registered and a raid was conducted wherein co-accused Mani Ram was apprehended and bribe money of Rs. 40,000/- was recovered.

9. If the version of the complainant is read in entirety, the alleged demand of bribe money was by co-accused Mani Ram but was towards processing a file seeking recognition/up-gradation of a private school up to 10th standard and which was within the domain of the present petitioner under whom Mani Ram (co-accused) was working. He was merely a Clerk/dealing hand.

10. There are direct allegations that on each and every occasion when the complainant met the District Education Officer i.e. present petitioner, he was repeatedly told to go and meet Mani Ram co-accused and only then his work would be done. Even though the final decision with regard to up-gradation/recognition of the school up to 10th standard may be within the domain of the Committee headed by the Deputy Commissioner still the matter could have gone for consideration before the Committee only after clearing the initial hurdle i.e. the processing/recommendation by the District Education Officer and who happens to be the present petitioner. Perusal of the order dated 18.05.2016, passed by the learned Additional Sessions Judge, Jind declining the concession of anticipatory bail to the petitioner also takes note that co-accused Mani Ram and who had been apprehended on the spot with the bribe money of Rs. 40,000/- had made a disclosure statement that out of such amount Rs. 30,000/- was to be passed on to the petitioner and Rs. 10,000/- was to be retained by him. The allegations are specific, categoric and serious in nature. Contention of learned senior counsel to segregate co-accused Mani Ram as the principal accused and view the present petitioner as totally alien to the offence alleged, cannot be accepted while considering the prayer for grant of anticipatory bail.

11. Even if calls were placed by the OSD to the Chief Minister, Haryana as per affidavit of the petitioner and the OSD being present at the time of the raid, the gravity of the charge would not be diluted. This is a matter which would require a deep, thorough and detailed probe. Custodial interrogation of the present petitioner may well be warranted.

12. In view of the above, the present petition seeking concession of pre-arrest bail to the petitioner is dismissed.