

CRM-M-58716-2023



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-58716-2023 (O&M)
Reserved on: 10.01.2024
Pronounced on: 29.01.2024**

Anita Kadian

... Petitioner(s)

Versus

State of Haryana

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Vinod Ghai, Sr. Advocate with
Mr. Gaurav Datta, Advocate,
Ms. Srishti S. Sharma, Advocate,
Mr. Shivam Sharma, Advocate and
Mr. Gurkirat Singh, Advocate
for the petitioner(s).

Mr. R.K. Singla, DAG, Haryana.

Mr. Nikhil Ghai, Advocate and
Mr. P.S. Bindra, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
20	6.9.2023	ACB, Karnal, District Anti Corruption Bureau, Karnal.	Sections 13, 7 and 8 of the Prevention of Corruption Act, 1988 (As amended by P.C. Act, 2018) and Section 120-B IPC.

1. The petitioner, a female Deputy Director of Forensic Science Laboratory, Madhuban, Karnal, Haryana, apprehending arrest in the FIR captioned above, had come up before this Court under Section 438 CrPC seeking anticipatory bail by filing the present petition.

2. This case was listed for the first time on 21.11.2023, when this Court did not grant interim protection to the petitioner. However, on 13.12.2023, this Court stayed the petitioner's arrest, which continues to date.

3. Facts of the case are extracted from reply dated 28.11.2023 filed by the State by way of affidavit of the concerned DySP, which read as under: -

“2.The true facts of the case are that in compliance of
direction of Chief Secretary, Government of Haryana, Vigilance

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Department letter No. 71/35/2023-5 Vig-I dated 03-04-2023 and vide Director General, Anti Corruption Bureau Haryana, Panchkula letter No. 5640/1-5/ACB (H) dated 07-04-2023, a vigilance enquiry bearing No. 04 dated 06-04- 2023 Karnal (Annexure R-1) was registered against Dr. Anita Kadian (petitioner-accused), Deputy Director Forensic Science Laboratory, Madhuban, Karnal, Sh. Neeraj Gaur, Director M/s Mygene Life Solution Company, New Delhi, Brij Singh, Operation Sales Manager, Mygene Company, New Delhi and Chandra Bhanu Choudhary, M/S Thermo fisher Scientific Company, Gurugram for enquiry into allegation of demanding and acceptance of bribe from the employees of Mygene Private Limited, New Delhi by Dr. Anita Kadian (petitioner-accused), Deputy Director, Forensic Science Laboratory, Madhuban, Karnal in purchase of DNA/PCR kits.

On completion of the said inquiry, its final report was sent to Director General, Anti Corruption Bureau, Haryana, Panchkula vide Superintendent of Police, Anti Corruption, Bureau, Karnal letter No. 1647/ACB/Karnal dated 22.5.2023. The Director General, Anti Corruption Bureau Haryana, Panchkula vide his letter No. 8859/ACB (H) dated 22.5.2023 had sent this report along with his comments to Chief Secretary, Govt. of Haryana, Vigilance Department (Annexure R-2). Upon which the Additional Chief Secretary, to Govt. of Haryana, Home Department vide his letter No. 12/38/2022-1 HG-II dated, Chandigarh, the 29-8-2023 and Director General, Anti Corruption Bureau, Haryana, Panchkula Endst. letter No. 14838/1-2/ACB, (H) dated 4-9-2023 (Annexure R-3) has directed the Superintendent of Police, Anti Corruption Bureau, Karnal to register the case against Dr. Anita Kadian (petitioner-accused), Deputy Director, Forensic Science Laboratory, Madhuban, Karnal, (Sh. Neeraj Gaur Director M/s Mygene Life Solution Company, New Delhi, Brij Singh, Operation Sales Manager, Mygene Company, New Delhi and Chandra Bhanu Choudhary, M/s Thermo fisher Scientific Company, Gurugram u/s 7,8,13 Prevention of Corruption Act, 1988 and 120-B IPC. Further, approval u/s 17-A of Prevention of Corruption Act, 1988 was also granted for purpose of investigation of this case.

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3. That during the course of above said vigilance enquiry, from the perusal of the audio/video recordings, statements of complainant as well as accused and from the perusal of reports given by the previously constituted enquiry committees in this matter, it has been found that the video recordings of conversation between Dr. Rajiv Kawatra and officers/officials of the company were prima facie natural and not doctored. On the basis of such recordings, it was found that Dr. Anita Kadian (petitioner-accused) had demanded the bribe of Rs. 20 lacs, out of which Rs. 11 lacs were paid to her through company official Brij Mohan Singh and all the happenings in the entire episode were found to be in the knowledge of Neeraj Gaur, Director of Mygene Company and official of Thermofisher Company Chandra Bhanu.

It was also found during the enquiry that Dr. Anita Kadian had obtained undue benefit by intimidating and putting undue pressure on the officers/officials of Mygene Company and Thermofisher Company and such act of Dr. Anita Kadian in calling the officers/officials of aforesaid company at her residence and meeting them in a coffee shop in Sector-8, Panchkula lends support to such charges. However, the aforesaid officers/officials namely Neeraj Gaur, Brij Mohan Singh and Chandra Bhanu in their statements had denied making payment of any bribe to Dr. Anita Kadian, but on the other hand, they had also not disputed the correctness of their conversations in the -video recordings. After a thorough enquiry and collection of scientific and technical documents/ evidences, it was recommended to lodge an FIR against Dr. Anita Kadian, (petitioner-accused) Deputy Director, FSL, Madhuban, Neeraj Gaur, Director M/s Mygene Life Solution Company, New Delhi, Brij Singh, Operation Sales Manager, M/s Mygene Life Solution Company, New Delhi and Chandra Bhanu Choudhary of M / s Thermofisher Scientific Company, Gurugram.

Hence, in compliance of directions of Additional Chief Secretary, to Govt. of Haryana, Home Department vide his letter No. 12/38/2022-1 HG-II dated, Chandigarh, the 29-8-2023 and Director General, Anti Corruption Bureau, Haryana, Panchkula Endst. letter No. 14838/1-2/ACB, (H) dated 4-9-2023, the present FIR No. 20 dated 06-09-2023 3u / s * 7, 8 Prevention of Corruption

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Act, 1988 and 120-B IPC (Annexure P-1) was registered in Police Station, Anti Corruption Bureau, Karnal against the petitioner-accused and other co-accused.

4. That a committee had been constituted for the procurement process by the Director, Forensic Laboratory Madhuban, Karnal by issuing office order No. 3346/FSL/Madhuban dated 08.03.2021 wherein members were Dr. Anita Kadian, Deputy Director, Dr. Rajeev Kawatra Senior Scientific Officer and Dr. Anshuman Rai Senior Scientific Assistant. On 15.03.2021, a meeting was held in Panchkula regarding purchasing of PCR kits on contract basis. The rate contract of PCR kit was done with M / s Thermofisher Pvt. Ltd. (USA) and the order, supply and payment of PCR kit was done through its associate channel partner My Gene Pvt. Ltd. New Delhi.

5. That thereafter during the course of investigation, the Superintendent of Police, Anti Corruption Bureau, Karnal vide his order No. 2614-20/ACB/KNL dated 8.9.2023 has constituted a Special Investigation team headed by Narender Kumar, HPS, DSP/ACB/Karnal including members Inspector Sachin and Inspector Seema of ACB/Karnal, for investigation of the present case.

6. That on 15-9-2023, the investigating officer took into possession from Dr. Rajeev Kawatra, Assistant Director, Forensic Science Laboratory, Madhuban, Karnal, one mobile phone make Apple Iphone-11, spectacles having recording/memory card and one digital voice recorder, after converting them into separate sealed parcels. The transcript of recordings were prepared, certificate u/s 65-B Evidence Act was obtained and statement of witnesses u/s 161 Cr.P.C were recorded. The copy of transcript/recording between Anita Kadian (petitioner-accused), Ajit Grewal and Rajiv Kawatra is attached herewith as Annexure R-4 to R-6.

On 25.9.2023, the investigating officer vide his letter No. 2771/ACB/KNL dated 25-9-2023 has sought the relevant record from Director, Forensic Science Laboratory, Madhuban, Karnal, pertaining to the contract of purchase of DNA/PCR Kits and the same was taken into possession vide recovery memo dated 26-10-

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2023.

On 2-11-2023, the investigating officer vide his letter 3311/ACB/KNL dated 02-11-2023 has sought the relevant record from Manager, Regional Drugs Ware House, Karnal, regarding the purchase procedure of DNA PCR Kit and the same was taken into possession vide recovery memo dated 10-11- 2023. The investigating officer recorded the statements of concerned witnesses u/s 161 Cr.P.C on even dates.

7. That from the recording/transcript of conversation between Brij Mohan Singh, and Dr. Rajeev Kawatra, it was found that Brij Mohan Singh (co-accused) has admitted that Dr. Anita Kadian (petitioner-accused) had demanded the bribe of Rs. 20 Lacs out of which Rs. 11 Lacs were paid to her through Brij Mohan Singh. The copies of transcripts/recording are attached herewith as Annexure R-7 to R-8.

*Similarly, from the recording/transcript of conversation between Chandra Bhanu Choudhary, and Dr. Rajeev Kawatra, it was found that Chandra Bhanu Choudhary (co-accused) has admitted that Rs. 11 Lacs were paid to Dr. Anita Kadian (petitioner-accused) through company official Brij Mohan Singh. The copies of transcripts/recording are attached herewith as **Annexure R-9 to R-11.***

*Furthermore, from the recording/transcript of conversation between Neeraj Gaur and Dr. Rajeev Kawatra, it was found that Neeraj Gaur (co-accused) has admitted that Dr. Anita Kadian (petitioner-accused) had demanded the bribe of Rs. 20 Lacs out of which Rs. 11 Lacs were paid to Dr. Anita Kadian through company official Brij Mohan Singh (co-accused). The copy of transcript/recording is attached herewith as **Annexure R-12.**"*

4. I have heard counsel for the parties and gone through the record, and all the submissions made by counsel for the parties and their response are being discussed individually.

5. In paragraph 4 of the bail petition, the petitioner seeks bail on parity. Counsel for the petitioner referred to the bail orders granted to co-accused Chandra Bhanu Choudhary in CRM-M-48565-2023, Brij Mohan Singh in CRM-M-48643-2023, and Neeraj Gaur in CRM-M-49633-2023. The State counsel opposes the bail on parity by

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stating that these three people were the company's marketing executives; and an FIR was registered against them under Section 8 of the PC Act and not Section 7 of the PC Act. An analysis of these arguments shows that these three accused were not arraigned as bribe recipients but are being prosecuted as bribe payers. Conversation recorded between complainant and official of company points out towards an eerie environment and a complex situation created by some of the corrupt officials of FSL, Madhuban, which probably left the suppliers with no other option but to pay bribes to secure their contracts and for timely release of payments of their bills. The investigation is going on. On inquiry from the court, state counsel stated that he had no instructions that whether any of these people have been made as approvers. Be that as it may, the petitioner is not entitled to bail on parity as the petitioner's case is on different footing and she is main accused.

6. The petitioner's Counsel's next argument is that a concocted case has been filed by some of the petitioner's colleagues to stall her promotion to Director of FSL which is due from February 2020. In paragraph 6 of the petition, the petitioner states that she was subjected to numerous inquiries and litigations with the sole object of tarnish her reputation to deprive her of due promotion. Counsel for the petitioner draws attention to paragraph 7 of the petition and submits that when the then Director, FSL, had asked the petitioner to supervise the DNA Division, she noticed some of her colleague's performance as highly unsatisfactory and that notices from the Court had been received, highlighting the shortcomings. Various inquiries were also made against the officials, including Dr. Rajiv Kawatra (complainant). Counsel for the petitioner submits that the inquiries found deficiencies, and as a result, Dr. Rajiv Kawatra (respondent No. 2), along with one Siddharth Kaushik and Anshuman Rai, who are not arraigned as respondents, started targeting her. The petitioner's counsel explicitly referred to paragraph 8 and stated that in CWP No. 15845 of 2021 (Annexure P-6), the State of Haryana was directed to consider the petitioner's claim as contained in her representation dated 26.03.2021 (Annexure P-7) within two months. This order was passed on 18.08.2021, and after that, the complainant/respondent No. 2 stage-managed the conversation and got those recorded on WhatsApp through a spectacle spy camera concerning a tender that was allotted six months earlier and in which the petitioner had a limited role of being a member of the technical committee. Mr. Vinod Ghai, Senior counsel for the petitioner, further submits that HMSCL Panchkula had floated the e-tender for the purchase of PCR kits on 12.02.2021, which is not related to petitioner as she was given supervision of the DNA Division on 12.03.2021. He further submits that in the alleged video, the conversation refers to October and November 2021, whereas the complainant- Dr. Rajiv Kawatra (respondent No. 2), had filed a

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complaint on 07.12.2021, i.e., six months after allotment of the tender. The petitioner's primary case is that even the complainant, Dr. Rajiv Kawatra, was instrumental in this tender and referred to Annexure P-7. A reference to Annexure P-7 reveals that it was a proposal sent by Dr. Rajiv Kawatra (complainant), Senior Scientific Officer/DNA, FSL, Haryana, Madhuban to the Director, Forensic Science Laboratory, Haryana, Madhuban. Counsel for the petitioner submits that the complainant had suggested the purchase of the DNA kits manufactured from Invitrogen Bio Services India Private Limited (Thermofisher) through their channel partner, M/s Mygene Life Solution Company, New Delhi. He further submits that the petitioner had a limited role in procurement, and she is being made a scapegoat. Referring to paragraph 10, counsel for the petitioner submits that the complainant, Dr. Rajiv Kawatra, had prior contact with the co-accused Chandra Bhanu Chaudhary, Marketing Executive of M/s Thermofisher Private Limited, Gurugram, and also with Neeraj Gaur, Director and Brij Mohan Singh, Operation Sales Manager of M/s Mygene Life Solution Company, New Delhi. Because of his prior contacts, the complainant Dr. Rajiv Kawatra managed the alleged WhatsApp recordings through a spy camera fitted on his spectacles, and transcript of recording had already written by the complainant Dr. Rajiv Kawatra before recording Mr. Vinod Ghai, Senior Counsel, further submits that complainant ensured that the video recordings were given publicity on news channels.

7. The concerned Deputy Superintendent of Police has filed a specific reply dated 08.12.2023. In the reply, the paragraph 5 on merits portion, mentions that the video recordings are natural, not doctored. Petitioner, Anita Kadian, demanded a bribe of Rs.20 Lakhs, out of which, Rs.11 lakhs was paid through company official Brij Mohan Singh with the consent and knowledge of the Director of Mygene Company and officials of Thermofisher Company. In paragraph 5 of the reply on merits, the concerned DySP explicitly submitted that according to the investigator, the petitioner had called the company officials to her residence and then met them in a Coffee Shop in Sector-8, Panchkula. There was no reason for her to call these officials to such a place, which corroborates the bribe payment. The investigator submitted that he had seized a phone made of Apple (iPhone11), spectacles with recording, a memory card, and one digital voice recorder. He has also annexed the transcript of recordings as Annexures R-4 to R-6 and taken a certificate under Section 65-B of the Indian Evidence Act to prove the same into evidence. However, secondary evidence would not be needed since the primary devices have already been taken into possession. Be that as it may, there is nothing to doubt about the recordings being deep fake, but the petitioner's case in the alternative is that the video recording was done after preparing the transcript in advance and it was stage-managed at the instance of respondent No.2-

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Dr. Rajiv Kawatra. The investigator has collected evidence to the effect that the petitioner had demanded Rs.20 lakhs to clear the files of the DNA kits, and out of that, she had already received Rs.11 lakhs through Brij Mohan Singh, and there is an admission of Brij Mohan Singh corroborating such payment. In paragraph 13, the investigator seeks custodial interrogation to recover the bribe amount of Rs.11 lakhs and mobile phone. State counsel further clarify that tender which was floated on 12.02.2021 for that contract was awarded on 28.05.2021 i.e. during the period of petitioner posting as head of DNA Division.

8. An analysis of the submissions and counter-submissions points out that at this stage, it is prima facie established that the videos recorded by Dr. Rajiv Kawatra's (complainant) were not deep-fake videos but were recorded by him from his spy camera fitted in his spectacles, and the investigator has seized such devices. Regarding the petitioner's case, these recordings were a drama being played, and everything that was already transcribed is prima facie incorrect. It is for this reason that I have watched these videos on the electronic device of my Law Researcher, and it is clear that the talks were flowing naturally, and it cannot be said that even the company officials are part of the ploy of Dr. Rajeev Kawatra being told what he wanted them to speak. They have revealed their ordeal, how they are afraid of FSL Madhuban officials, and how they are called for money by the official/officer of FSL. The investigator has collected sufficient prima facie evidence, which is in the shape of admissions made by co-accused Chandra Bhanu Chaudhary, Brij Mohan Singh, and Neeraj Gaur, in which they have admitted before the complainant Dr. Rajiv Kawatra about the demand of Rs.20 Lakhs by the petitioner Anita Kadian and payment of Rs.11 Lakhs as demanded by her. Such evidence is in the shape of a video recording made by the complainant, Dr. Rajiv Kawatra, a colleague of petitioner Anita Kadian. The original digital devices have been taken into possession by the investigator, and even a certificate under Section 65-B of the Indian Evidence Act has also been given, probably to be on the safer side. Needless to say, Dr. Rajiv Kawatra had a motive to implicate the petitioner-Anita Kadian, and it was only for that reason that he had recorded the conversation, but that does not imply that whatsoever the co-accused told him had already been pre-written or its transcript was already written by the complainant, Dr. Rajiv Kawatra. Watching the videos clearly points out that the co-accused had admitted before Dr. Rajiv Kawatra in a natural flow and it did not point out preparations. To date, the complainant, Dr. Rajiv Kawatra, has not been arraigned as an accused; the admissions made before him prima facie are legally admissible. It is well settled that extra-judicial confessions can always be read in evidence provided they are without any allurements, pressure, and by giving stupefying agent and are made in the fit mental condition of which a person is

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conscious. Further, there is a specific allegation against the petitioner, Dr. Anita Kadian, that she had received Rs.11 Lakhs to clear the file relating to the supply of DNA kits. In this case, all the co-accused, the company officials had stated in detail about their plight at the hands of the officers of FSL, Madhuban, and the massive corruption rampant in the laboratory. Thus, on this analysis alone, the petitioner is not entitled to anticipatory bail.

9. The State's counsel has also annexed the telephonic conversation between complainant Dr. Rajiv Kawatra and petitioner Anita Kadian as Annexure R-4. A reading of the conversation shows that complainant Dr. Rajiv Kawatra was very careful because he was recording the conversation, but the petitioner was very casual because she did not know that the conversation was being recorded. State counsel also referred to the transcript of recording of the video recording by complainant Dr. Rajiv Kawatra on his spectacle camera. However, there is a specific admission that Brij Mohan Singh paid a lot of money to the petitioner. In the other conversation (Annexure R-8), Brij Mohan Singh specifically stated that he had met the petitioner in Chandigarh and, after that, in a Coffee Shop at Panchkula for 10-15 minutes. The State counsel has also referred to the conversation between Chandra Bhanu Chaudhary and complainant Dr. Rajiv Kawatra (Annexure R-9). Chandra Bhanu Chaudhary explicitly mentions that the petitioner was putting pressure on him. He has further mentioned the difficulties that the petitioner is creating for the release of payment on demand of bribe so that they pay bribe to her. There is a specific mention by Chandra Bhanu Chaudhary about payment of Rs.11 Lakhs, and on clarification by complainant Dr. Rajiv Kawatra, he did not deny the amount of Rs.11 Lakhs, even though the investigator mentions the amount as Rs.11 Lakhs. On page 220, internal page 101 of the reply, accused Chandra Bhanu Chaudhary explicitly refers to Rs.11 Lakhs in the context of payment as a bribe to the petitioner.

10. I have also read all the conversations, i.e., Annexures R-10, 11, and 12. The complainant, Dr. Rajiv Kawatra, was cautious because he was recording the video and he was putting the leading questions, but despite this, it had no impact on the outcome of such questions, and it has been explicitly stated by the officials of the company that the petitioner demanded Rs.20 Lakhs and she had been paid Rs.11 Lakhs. A reading of the entire conversation points out the plight of the company officials at the hands of government officials. One can make it out that they were scared of the FSL people because of the excessive demand for bribes/speed money by some of the corrupt officials of FSL Madhuban.

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11. The evidence collected is prima facie admissible, given the sections 8 and 30 of the Indian Evidence Act of 1872. All three suppliers made extra-judicial confessions before the complainant Rajiv Kawatra, whose evidence is relevant because he has not been arraigned as an accused as of date. Further, the extra-judicial confession of the three company officials is also a relevant fact, and all of them independently told about the demand of Rs. 20 lacs and the receipt of Rs. 11 lacs as a bribe by Anita Kadian. Thus, all three of them corroborate with each other regarding the demand and payment of bribes. The investigation is ongoing and will eventually point towards the involvement or absolution of all the other accused.

12. The bribe involves the purchase of DNA testing kits. DNA testing plays a crucial role in concluding complex investigations through scientific evidence, which is conclusive and critical to achieving justice, especially for survivors of sexual assault and physical assault, just to say a few. Any unwarranted interference or obstruction at any level about such a sensitive matter would cause a devastating blow to the investigation and thereby to the entire criminal justice system and, therefore, needs to be considered seriously. If such grave allegations are leveled against any official, they need to be examined microscopically, leaving no stone unturned to ensure that no innocent is wrongly prosecuted for a crime they did not commit, and no victim is deprived of due justice.

13. The petitioner had filed additional documents vide affidavit dated 22.12.2023 in which she claims that she has 19 years of unblemished record and has reported about 4000 cases and has also authored a book on FSL, which is published in the United States of America; she was also a recipient of an award by DGP, Haryana. She further submits that although the concerned Additional Sessions Judge had pointed out the non-comparison of DNA, which led to an inquiry, she has been falsely implicated. In paragraph 6, the petitioner pointed out cases examined by complainant Dr. Rajiv Kawatra and Mr. Sidharth Kaushik and Anshuman Rai in which the DNA profile did not get any opinion. The said table is extracted as follows:-

Sr. No.	FIR No.	Police Station	DNA No.	Result	Name of Reporting Officer
1.	305/17	Sec-40, Gurugram	219/17	No-opinion	Dr. Rajeev Kawatra
2.	241/16	City Gurugram	166/18	No-opinion	Dr. Rajeev Kawatra
3.	90/18	WPS, Gurugram	521/18	No Opinion	Sh. Siddharth Kaushik

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4.	709/17	Civil Lines, Gurugram	578/18	No Opinion	Sh. Siddharth Kaushik
5.	505/16	Sushant Lok Gurugram	294/17	No Opinion	Sh. Anshuman Rai
6.	239/17	Sushant Lok Gurugram	379/17	No Opinion	Sh. Anshuman Rai
7.	227/17	DLF Sec-29, Gurugram	341/17	No Opinion	Dr. Rajeev Kawatra
8.	357/18	WPS Gurugram	624/18	No Opinion	Sh. Siddharth Kaushik
9.	113/17	IMT Manesar Gurugram	265/18	No Opinion	Sh. Siddharth Kaushik
10.	118/17	WPS Gurugram	48/18	No Opinion	Sh. Anshuman Rai
11.	678/17	Badsahpur Gurugram	677/18	No Opinion	Sh. Siddharth Kaushik
12.	276/17	Udyog Vihar Gurugram	367/17	No Opinion	Sh. Anshuman Rai
13.	131/17	Bhondsi Gurugram	381/17	No Opinion	Dr. Rajeev Kawatra
14.	60/17	Sushant Lok Gurugram	126/18	No Opinion	Sh. Siddharth Kaushik
15.	168/17	Sec-40, Gurugram	669/18	No Opinion	Sh. Siddharth Kaushik
16.	665/16	Sushant Lok Gurugram	787/18	No Opinion	Sh. Siddharth Kaushik
17.	209/18	Sec-56, Gurugram	405/18	No Opinion	Dr. Rajeev Kawatra

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14. Thus, she wants to show that Dr. Rajiv Kawatra is not honest and has stage-managed everything.

15. An analysis of this statement would only *prima facie* create doubt about Dr. Rajiv Kawatra's merits, and there is no allegation of any criminal intent. The entire investigation points out that some the officials of FSL, Madhuban, are awarding tenders and clearing bills to the companies only on receipt of massive amounts of bribes. If the officers/officials are posted in such sensitive positions when their report is *per se* permissible under Section 293 Cr.P.C., the consequences can be devastating. It is for the government to look into this aspect of the matter, but as far as the petitioner's case for bail is concerned, by highlighting the mediocrity of Dr. Rajiv Kawatra, she is not entitled to any benefit in this regard.

16. Given the nature of allegations, custodial interrogation is required. 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. 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 Jitmalji 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 ensconded 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 insulted 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].

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

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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 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 in the light of the judicial precedents mentioned above in the facts and circumstances peculiar to this case, the petitioner

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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, if any, stand vacated. All pending applications, if any, also stand disposed.

(ANOOP CHITKARA)
JUDGE

29.01.2024

Jyoti-II

Whether speaking/reasoned	:	Yes
Whether reportable	:	YES

