

Punjab-Haryana High Court

Rajiv Alias Anil Yadav vs State Of Haryana on 16 September, 2009

CRM No. M-17109 of 2009

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IN THE HIGH COURT FOR THE STATES OF PUNJAB &
HARYANA AT CHANDIGARH.

1- CRM No. M-17109 of 2009 (O&M)
Date of decision: 16.9.2009

Rajiv alias Anil Yadav ...Petitioner
Versus
State of Haryana ...Respondent

2- CRM No. M-17284 of 2009 (O&M)

Rama Shankar Shukla ...Petitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. S.S. Dinarpur, Advocate for the petitioner.
Mr. Gaurav Dhir, AAG, Haryana.
Mr. Mukesh Yadav, Advocate, for the complainant.

Rajan Gupta, J.

This order shall dispose of the above mentioned two petitions i.e. Crl. Misc. No. M-17109 of 2009 and Crl. Misc. No. M-17284 of 2009, wherein prayer has been made for grant of bail to the petitioners in a case registered against them under Sections 420, 406, 467, 468, 471, 120-B IPC at Police Station City Thanesar, District Kurukshetra, vide FIR No.408 dated 1st september, 2008.

The allegations in the FIR is that the complainant, who is working in Kurukshetra University, Kurukshetra, wanted to get his son Nishant admitted in a Medical College for MBBS course. He saw advertisement dated 18th July, 2008 in the news paper 'The Tribune' about a person who claimed to help for the purpose of admission to MBBS course. The mobile numbers of the said person were also given in the advertisement. The complainant contacted the said person. He told him that an expenditure of Rs.20.00 lacs would be incurred in securing the admission. He gave his name as S. Kumar. On 20th July, 2008, said S. Kumar came to the house of the complainant and took Rs.2.00 lacs and instructed him to send DMC of 10+2 to him through fax. On 21st July, 2008, the complainant deposited Rs.32,300/- as registration charges in a bank account in Cannaught Place, New Delhi. Thereafter, the complainant went to Bangalore, where an agent of S. Kumar, namely, Amit Aggarwal met him. The complainant demanded the receipt and paper of provisional

admission, but the same were not delivered. He was told to go to a college at Lucknow. On 1st August, 2008, the complainant reached Lucknow and met S. Kumar. He demanded Rs.10.00 lacs in cash and Rs.4.00 lacs by way of cheque. He assured that provisional admission and receipt in that respect would be delivered soon. According to the complainant, the money, as demanded by S. Kumar, was given to him and S. Kumar delivered receipt and papers of provisional admission. Ultimately, the complainant reached KGMS College, Lucknow on 20th August, 2008 and presented the papers to the College. The College, however, informed that the papers were bogus. Thereafter, all efforts to contact S. Kumar failed.

Learned counsel for the petitioner has argued that in the entire FIR, the allegation of delivery of money is to S. Kumar. The only other person, whose reference is there in the FIR, is Amit Aggarwal. He has further argued that the petitioners have been in custody since 16th January, 2009. According to him, the case is triable by the Magistrate and no useful purpose will be served by detaining the petitioners in custody during the pendency of the trial.

Learned counsel for the State has opposed the prayer for bail and has stated that allegations in the FIR are serious in nature. He, however, does not dispute the fact that petitioners are not named in the FIR. He has also submitted that challan against the petitioners has already been presented. Regarding rest of the accused, he submits that efforts are afoot to arrest them, particularly S. Kumar and Amit Aggarwal.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

Undoubtedly, the allegations in the FIR are serious in nature. The petitioners have, however, been in custody since January, 2009 and according to the stand of the investigating agency, investigation qua them has been completed and challan has been presented in the competent court. Admittedly, the petitioners are not named in the FIR though their role has figured in the investigation conducted by the investigating agency.

During the course of hearing, counsel for the complainant also put in appearance and stated that he had not named the petitioners Rama Shankar Shukla and Rajiv alias Anil Yadav in his complaint sent to the police. Keeping in view the fact that the case is triable by the Magistrate and the petitioner has been in custody for almost nine months now, I do not feel that any useful purpose will be served by detaining them in custody any further. The trial of the case may take time to conclude. The accused, who are named in the FIR i.e. S. Kumar and Amit Aggarwal are yet to be arrested by the Haryana Police. I am, therefore, of the considered view that petitioners deserve the concession of bail. So, without expressing any opinion on the merits of the case, both these petitions are allowed and the petitioners are directed to be released on bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Kurukshetra.

(RAJAN GUPTA) JUDGE September 16, 2009 'rajpal'