IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM No. M-1588 of 2016 (O&M)
Date of Decision:03.02.2016

Pankaj Ganda

...Petitioner

Versus

State of Haryana and another

... Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Atul Lakhanpal, Senior Advocate with
Mr. R.S.Chahal, Advocate,
for the petitioner.

Mr. Vivek Saini, DAG, Haryana.

Mr. Deepak Sabherwal, Advocate,
for respondent No.2.

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TEJINDER SINGH DHINDSA. J

The instant petition has been filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioner in case FIR No.279 dated 05.10.2015, under Sections 420, 465 and 468 of Indian Penal Code, registered at Police Station Kalanwali, District Sirsa.

Perusal of the FIR would reveal that allegations against the petitioner are with regard to illegalities as also misappropriation of money while holding the post of Assistant General Manager (Operations) with the Dakshin Haryana Bijli Vitran Nigam Limited (for short 'DHBVNL') while executing a Self Execution Tubewell Scheme.

Learned Senior counsel appearing for the petitioner has argued that it is a case of false implication and the FIR has been registered with undue haste. It is submitted that the audit party has committed a number of mistakes and as such the allegations against the petitioner are completely unfounded. It is also contended that the petitioner was holding the post of Sub-Divisional Officer (SDO) whereas the allegations would primarily fall within the nature and duties falling to the post of Junior Engineer. It is contended that the allegations would at best amount to dereliction of duty but would not attract any criminal prosecution. Further submitted that the stores/equipment that had allegedly been drawn in excess have already been returned in part and if given an opportunity, the balance would also be made good and as such there is no eventuality of the respondent Nigam suffering any loss.

Upon notice having been issued in the present petition, Mr. Deepak Sabherwal, Advocate has put in appearance on behalf of respondent No.2-Nigam and has vehemently opposed the petition. He has adverted to two sets of documents in support of the allegations, a complete set of which was furnished to the counsel for the petitioner.

Having heard the counsel for the parties at length and having perused pleadings on record as also the documents furnished on behalf of the Nigam, this Court is not inclined to grant concession of pre-arrest bail to the petitioner.

In a nutshell, the allegations against the petitioner are that he has grossly abused the post that he held i.e. of Assistant

General Manager (OP.) with the respondent Nigam and collected a huge sum of money under the garb of a Self Execution Tubewell Scheme and the money so collected from 42 different consumers has not been deposited in the office and rather receipts which were issued earlier in point of time to genuine consumers have been utilized to draw stores/material in the nature of high generation wires/transformers etc. Allegations against the petitioner relate to the time period when he was posted as SDO in Operation Sub Division DHBVN Kalanwali, Sirsa from 25.06.2010 to 16.10.2011 and from 03.09.2012 to 25.08.2014. Details of 18 numbers of Tubewell connections where excess/double material has been drawn from the store of the Nigam and the same having been misutilized for unauthorized works have been shown to this Court. Likewise statement of 24 consumers where allocation of material was made against false bills has also shown to this Court. The service connection orders are stated to have been released by the present petitioner without there being proper estimates. Even though it has been conceded by counsel appearing for the Nigam that it was the JE (Junior Engineer) who had drawn stores but it has been clarified that the same was possible only upon a service connection order having been released and which was strictly within the domain and responsibility of the SDO concerned i.e. the present petitioner. The documents made available by counsel appearing for the Nigam would also prima facie indicate that token money receipts that had already been issued to earlier consumers have been utilized to draw store/material a second time over.

Accusations against the petitioner are of a nature and gravity that are very serious. The role of the petitioner as per allegations was not only supervisory in nature but also indicate a direct participation. Loss caused to the Nigam is stated to be Rs.22 Lacs approximately. In such matters, a free, fair and in depth investigation would be imperative.

Mr. Sabherwal informs the Court that a decision has also been taken on 06.01.2016 by the DGP and Director Vigilance HVPNL Panhkula to conduct a vigilance inquiry against the petitioner against a backdrop of allegations of corruption and even a committee for such purpose has been constituted.

In the impugned order dated 16.12.2015 passed by the learned Additional Sessions Judge, Sirsa, it has been noticed that there are four other FIRs in which the petitioner is involved and on similar allegations. The details of such FIRs is as follows:

> *FIRs i) No.86 dated 10.04.2015 under Sections 420, 34 IPC,*
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> *ii) No.281 dated 15.07.2015 under sections 420, 218, 46, 468, 471, 506, 34 IPC,*
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> *iii) No. 276 dated 03.10.2015 under Sections 420, 218,467, 468, 471, 506, 34 IPC and*
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> *iv) No.332 dated 01.12.2015 under Sections 420,218, 567, 468, 471, 506, 34 IPC are registered against the accused-petitioner in Police Station, Kallanwali.*

Factum of registration of such FIRs has not been rebutted by counsel appearing for the petitioner.

In view of the circumstances noticed here-in-above and to conduct a deep probe in the matter, custodial interrogation of the petitioner may well be warranted.

Present petition seeking concession of pre-arrest bail is, accordingly, dismissed.

03.02.2016 **(TEJINDER SINGH DHINDSA)**
vandana **JUDGE**