

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

Date of decision:06.05.2016

Jaibir Malik, Naib Tehsildar

.....Accused Petitioner

v.

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Ramesh Hooda, Advocate for the accused petitioner.

Mr.Kuldip Tiwari, Addl.AG Haryana assisted by ASI Prem
Parkash

Jaswant Singh,J(Oral).

The prayer is for grant of regular bail under Section 439 Cr.PC on behalf of accused Jaibir Malik, Naib Tehsildar in case FIR No.615 dated 02.12.2015 under Sections 120-B, 420,467,468,471 IPC and Section 13(1)(d) of Prevention of Corruption Act, registered at PS Ganaur, District Sonipat.

In brief the facts are that agriculture land measuring 47K9M in Village Barhi(also written as Baddi), Ganaur, District Sonipat under the ownership of Okara Group of Companies was attached vide order dated 22.11.2002 passed by Hon'ble Delhi High Court in a CA(M) 115 of 2002 and 63 of 2002 filed by the creditors,including Kawaljit Singh Kher. Subsequently vide order

dated 25.9.2008 the learned Company Judge, in the aforesaid Company Petition issued specific direction to the District Collector, Sonapat Haryana not to proceed with the sale/auction proceedings in respect of the aforesaid land in question. Thus, accordingly entries in the revenue record were made. It is also a matter of record that the Official Liquidator of Delhi High Court informed the Deputy Commissioner, Sonapat vide his letter dated 23.6.2015 about the pendency of liquidation proceedings regarding Okara Group of Companies and their being a stay with regard to any kind of alienation of the property in question. The Deputy Commissioner further forwarded the letter on 8.7.2015 to Tehsildar, Ganaur for appropriate action and entry in the *roznamcha*.

The allegation against the petitioner-accused is that he while holding the additional charge as Naib Tehsildar, Ganaur in connivance/conspiracy with other co-accused, namely, Hari Saran Bhatia, Randhir Singh, Baldev Singh (impersonating as Narinderjit Singh fake Director of M/s Okara Agro Industries), Sunil Kumar, Sultan Singh, Narain Singh etc. executed a sale deed no.2956 dated 26.10.2015 (scribed on 21.7.2015) pertaining to the land in question on the basis of a fake/forged order dated 27.7.2015 of the Hon'ble Delhi High Court and fake entry in the copy of the *jamabandis* in great haste inspite of knowledge of stay of such alienation.

It has come in the investigation that the stay order, which still stands entered in the revenue record of Tehsil Ganaur, was in his

notice as also of the other staff i.e. Halqa Patwari and Registry Clerk etc. Recovery of part of bribe amount i.e. Rs.1 lac out of total Rs.4 lacs received, pursuant to the disclosure statement has been effected.

It is a conceded position that although sale deed has been executed, however, the possession of the land is still with the Official Liquidator and the previous entries in the revenue record are intact.

It is contended that the petitioner is in custody since 13.12.2015 (except the period of interim bail from 12.1.2016 to 22.1.2016) and after completion of investigations qua him, which are primarily based on documentary evidence, challan stands presented. The evidence of prosecution witnesses is yet to commence.

The learned State counsel on instructions from ASI Prem Parkash does not dispute the custody period, presentation of challan qua the petitioner-accused, however, submits that investigations qua others are still in progress.

Without commenting on the merits of the case, keeping in view the above and the custody period, and that trial is not likely to conclude in near future, no useful purpose will be served by keeping the accused-petitioner in judicial custody any longer. Accordingly, the present petition is allowed and petitioner is ordered to be released on bail to the satisfaction of CJM/Duty Magistrate concerned. However, petitioner shall join any further investigation as and when summoned.

6.5.2016

joshi

RAJINDER KUMAR JOSHI
2016.05.09 09:30
I attest to the accuracy and
integrity of this document

(Jaswant Singh)
Judge