

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

**CRM-M-20552 of 2016**

**Date of decision: July 11, 2016**

**Vinod Bhati**

**...Petitioner**

**Versus**

**State of Haryana**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE JASPAL SINGH**

Present: Mr. Shiv Kumar, Advocate  
for the petitioner.

Ms. Neelam Kashyap, AAG, Haryana assisted by  
HC Raj Kumar.

**JASPAL SINGH, J.**

Through the instant petition preferred under Section 438 of Code of Criminal Procedure, Vinod Bhati has sought pre-arrest bail, feeling apprehension of his arrest, in case bearing FIR No.615 dated 07.10.2015, under Section 12-B Unregulated Development Act, 1963 registered at Police Station Sadar, Palwal.

The contention of learned counsel for the petitioner is that the petitioner has been falsely implicated in the instant case. Neither he has committed any offence as alleged by the petitioner nor violated the provisions of Section 3 of the Punjab Scheduled Roads and Controlled Area Restriction Unregulated Development Act, 1963 (for short 'Act').

Learned counsel for the petitioner further contends that no notice as required under Section 12 of the Act has been issued to the petitioner by the respondent-State prior to the registration of the FIR. Even no sanction for launching prosecution against the petitioner has been

obtained by the investigating agency prior to the registration of FIR or during the pendency of the investigation, the entire case of the prosecution is based on documentary evidence which have already been collected by the investigating agency. Moreover, the petitioner is ready to join the investigation as required by the police and to abide all the terms and conditions imposed by this Court in case he is granted the concession of pre-arrest bail. The petitioner has already complied with the order passed by this Court dated 6<sup>th</sup> June, 2016 and has removed the temporary structure.

On the other hand, learned State counsel has submitted that petitioner is guilty of violation of provisions of Section 3 of the Act. As far as the service of notice under the Act is concerned, the same was issued to the petitioner but he did not respond to the said notice. Even he has sold the land to different persons which falls within 100 meters of the scheduled road. The various sale transactions have been made by the petitioner just to create hurdles for the smooth functioning of the State who have further raised the construction(s) in the land so purchased by them. Thus, the petitioner does not deserve the concession of pre-arrest bail.

This Court has given deep thought to the aforesaid submissions made by learned counsel for the parties and perused the record.

As far as the non-obtaining of sanction for launching the prosecution against the petitioner is concerned, it is not required to be obtained prior to the registration of the FIR, rather, the same is required to be obtained from the concerned authorities by the investigating agency

prior to the presentation of report under Section 173(2) Cr.P.C. and it is clear case of the respondent-State that necessary sanction shall be obtained prior to the presentation of the challan. Similarly, it is also a specific case of the State that requisite notice under Section 12 of the Act has been issued to the petitioner prior to the registration of the FIR but the petitioner did not file any reply. It was only, thereafter, the instant case was registered and investigation was put into motion. Further it can also be said that the various sale transactions have been made by the petitioner just to create hurdles for the smooth functioning of the State especially in the circumstances that the purchaser(s) of the land cannot derive any benefit as they are unable to raise any construction in the property so purchased by them. Rather, this Court is of the considered view that the said sale(s) appear(s) to have been made by the petitioner in connivance with the purchasers. In the given circumstances, this Court is of the considered view that custodial interrogation of the petitioner is required to unearth all the ramifications involved in this case.

In the light of the aforesaid discussion, this Court does not find any merit in the instant petition as such, the same is dismissed.

**July 11, 2016**  
*m. sharma*

**(JASPAL SINGH)**  
**JUDGE**