

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Date of Decision: March 14, 2016

1. CRM M-38191 of 2015

Jagmohan Sharma

.....Petitioner

Vs.

State of Haryana

.....Respondent

2. CRM M-38866 of 2015

Gokul Sharma

.....Petitioner

Vs.

State of Haryana

.....Respondent

3. CRM M-38912 of 2015

Vinod Kumar

.....Petitioner

Vs.

State of Haryana

.....Respondent

4. CRM M-39029 of 2015

Rajesh Rana

.....Petitioner

Vs.

State of Haryana

.....Respondent

5.

CRM M-39831 of 2015

Laxman Dass

.....Petitioner

Vs.

State of Haryana

.....Respondent

6.

CRM M-40012 of 2015

Prashant Sharma

.....Petitioner

Vs.

State of Haryana

.....Respondent

7.

CRM M-43934 of 2015

Chander Mohan

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON’BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.R.S. Rai, Sr. Advocate with
Mr. Abhinav Sood, Advocate
for the petitioner in CRM M-38191 of 2015.

Mr. Arihant Jain, Advocate for the petitioner in
CRM M-38866 of 2015.

Mr. Bipan Ghai, Sr. Advocate with
Mr. Paras Talwar, Advocate for the petitioner in
CRM M-38912 of 2015.

Mr. S.S. Narula, Advocate for the petitioner in
CRM M-39029 and M-40012 of 2015.

Mr. P.K. Chugh, Advocate for the petitioner in
CRM M-39831 of 2015.

Mr. Akshay Jindal, Advocate for the petitioner in
CRM M-43934 of 2015.

Mr. Parvinder Chauhan, Addl.A.G., Haryana.

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M.M.S. BEDI, J.

This order will dispose of seven petitions bearing CRMs M-38191, M-38866, M-38912, M-39029, M-39831, M-40012, and M-43934 of 2015 for grant of pre-arrest bail. The FIR has been registered against various senior officers of the Forest Department posted in Haryana at the instance of Inspector, State Vigilance Bureau alleging that all the petitioners have embezzled funds granted under the National Rural Development Guarantee Act (NRGA) and Mahatama Gandhi National Rural Employment Guarantee Scheme (MNREGA) which provided guarantee of wage employment. The amount which was released by District Project Coordinate and District Rural Development Authority for MNREGA work of District

Forest Officer, Ambala for the year 2007 to 2010 to the extent of Rs.25.13 crores by issuing cheques by IAS Officers was allegedly misappropriated.

State counsel on the instructions of the investigating officer has vehemently contended that the different projects of Plantation, Nursery and earth filling taken up in different zones of Naraingarh Majra, Dhulkot, Abupur Block, Dulyani, Kakar Majra, Daliana etc. were found to have not been done as per the annual action plan of the year 2007-08. It has been argued that not even a single plant was found at different places. It was vehemently urged that during the course of inquiry it was found that Shri Jagmohan Sharma the then DFO (T), Ambala, Shri Gokul Sharma the then Range Forest Officer, Ambala, Shri Rajesh Rana the then Range Forest Officer of the Naraingarh, Shri Parshant Sharma the then Range Forest Officer, Shaha, Shri Vinod Kumar, the then Range Forest Officer, Shaha, Shri Laxman Dass the then Range Forest Officer, Saha, Shri Deepak Alahabadi then Range Forest Officer Saha, and Shri Chander Mohan then Deputy Superintendent of Forest office, Ambala, Shri Surinder Kumar Nagar, then Accountant of Forest Office Ambala, in connivance with each other misusing their post, misappropriated amount for MNREGA Scheme to the tune of Rs.25.95 crore out of which Rs.55.50 lakh are embezzled for Herbal Parks, Rs.1,70,26,870 were meant for development of nurseries, Rs.1,90,52,595 were meant for work of Kaccha Rasta, Rs.6168004/- are shown to be spent on labour, Rs.404805/- were embezzled by not making entries in the cash book of DFO (T), Ambala, Rs.15 lacs was embezzled by

not getting earth on the Kachha Rasta and not getting 'display Board' fixed, Rs.2,28,202/- was embezzled showing additional material being used on the concrete passage as per technical opinion, thus causing total loss to the Government of Rs.4,99,30,343/- and fabricated record were prepared and added in MIS (Monitoring Information System). Also concerned Muster Rolls and Voucher were intentionally destroyed. On the basis of the investigation, from the revenue record and mutations only single Nursery was found developed under MNREGA Scheme, by Forest Department whereas the embezzled amount of Rs.1,70,26,875/- was found only on the head of nurseries (on the basis of enquiry only 42 nurseries were shown by the Forest Department. Now as per Investigation number of nurseries to be developed increased to 123).

With the assistance of counsel for the petitioners, I have gone through the police record. An inquiry No.202 of 2011 regarding above said violations and irregularities under MNREGA Scheme by Forest Department in Ambala was also conducted by Forest Conservator North Circle, Haryana, Panchkula who submitted report to the Forest Chief Conservator, Haryana, on December 23, 2015, copy of which has been placed on record as annexure P-4. A perusal of that report indicates that Technical Committee, by visiting different zones of Ambala Forest Divisions had arbitrarily got conducted an inquiry from Haryana State Vigilance Bureau of the works done for the years 2007-08, 2008-09, 2009-10. Various rules of Haryana Forest Department had also not been considered. The element of natural

disaster has also not been considered and the Vigilance Bureau has given more priority to inquiry report dated February 27, 2010 conducted by Sanjeev Verma, Additional Deputy Commissioner, Ambala and that of Sh. Wazir Singh Goyat, Additional Deputy Commissioner dated March 30, 2010 and no employee/ official of the Forest Department had been joined in the inquiry report by both the officers.

Without going into the details of the controversy, it is sufficient to observe that there are contradictory reports available on the record regarding the culpability of the petitioners. The allegations against the petitioners are combination of official misconduct as well as of criminal liability. It will not be appropriate to comment at this stage that the guilt of the petitioners is prima facie apparent on the record on the basis of the contradictory reports.

Since the matter pertains to the work done in the years 2007 to 2010 and the misappropriation has to be established on the basis of the evidence to be led before the trial Court, it is not a case of custodial interrogation on account of the period which has already elapsed and on account of the apparently contradictory reports. The petitioners have already joined investigation. No useful purpose will be served by sending the petitioners in custody during the period of trial.

All the petitions are allowed and it is ordered that in case of arrest of the petitioners they will be released on bail to the satisfaction of the arresting officer subject to the conditions that they will join investigation as

and when required by the police and they will not tamper with the evidence or hamper the investigation in any manner. If any of the petitioners wants to leave India, he would be required to seek permission from the Court of competent jurisdiction.

March 14, 2016
sanjay

(M.M.S.BEDI)
JUDGE