

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-13392 of 2017 (O&M)
Date of Decision: 26.04.2017

Kailash Kumar Singla

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. A.P.S. Deol, Sr. Advocate with
Mr. H.S. Mavi, Advocate for the petitioner.

Mr. Varun Sharma, A.A.G., Punjab.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the present petition filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case F.I.R. No.4 dated 15.3.2017 under sections 13(1)(e) read with section 13(2) of Prevention of Corruption Act, registered at Police Station, Vigilance Bureau, Bathinda, District Bathinda.

Learned counsel for the parties have been heard.

Petitioner is an Executive Engineer under the Punjab State Water Resources Management and Development Corporation. Perusal of the FIR would reveal that there are allegations of the petitioner possessing movable and immovable assets not commensurate to his known sources of income and amounting to approximately Rs.4,80,000,00/-. The FIR recites the seizure of cash, F.D.s, cheque books etc. on a raid having been conducted. The offence cited is under sections 13(1)(e) read with section 13(2) of Prevention of Corruption Act.

Learned senior counsel appearing for the petitioner has prima facie made out a case of the instant FIR being ill motivated.

It has gone uncontroverted that earlier in point of time FIR No.1 dated 10.1.2017 Police Station, Vigilance Bureau, District Bathinda under sections 7, 13(2) and 88 of Prevention of Corruption Act had been registered against the petitioner. Petitioner was arrested on 10.1.2017 itself. The statutory period of 60 days for submission of challan having elapsed, petitioner was vested with an indefeasible right for grant of bail under Section 167(2) Cr.P.C and such concession was granted by the competent court on 16.3.2017.

During the course of arguments learned State counsel would concede that the inventory of seizure mentioned in FIR No.4 dated 15.3.2017 is identical to the recovery memo prepared at the time of registration of FIR No.1 dated 10.1.2017.

The contention raised by learned senior counsel that it was open for the prosecution to have cited offence under sections 13(1)(e) read with section 13(2) of Prevention of Corruption Act on 10.1.2017 itself and the subsequent FIR having been registered only to defeat the benefit of bail already granted to the petitioner, is well founded.

The allegation is of possessing disproportionate assets in relation to the declared sources of income. Surprisingly the well accepted procedure of defining a check period and then putting the delinquent to notice as regards the assets possessed in relation to the check period was never resorted to in the present case.

Petitioner was initially arrested on 10.1.2017. He was granted concession of default bail under Section 167(2) Cr.P.C on 16.3.2017 and on the same very day he has again been arrested in pursuance to FIR No.4 dated 15.3.2017.

The timing of the present FIR No.4 dated 15.3.2017 is not lost to this Court.

In the light of the discussion herein above and without making any observations on merits, petitioner is held entitled to the benefit of bail. Petitioner be enlarged on bail subject to satisfaction of C.J.M./Duty Magistrate, Bathinda.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

26.04.2017

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Whether speaking/reasoned: Yes

Whether Reportable: Yes