

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22188-2017 (O&M)

Date of decision: August 21, 2017.

Kuldeep Singh

... **Petitioner**

v.

State of Punjab

... **Respondent**

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Shri Jagjit Singh, Advocate for the petitioner(s).
Shri Ramandeep Singh Sandhu, Sr. Dy. AG, Punjab.
Shri KDS Hooda, Advocate for the complainant.

A.B. Chaudhari, J. (Oral):

Learned Counsel for the State, upon instructions, submits that ADC Satish Chander Vashisth was suspended in July, 2015 and the departmental inquiry is still pending against him. State of Punjab is directed to hold the departmental inquiry also on the point of loss caused to the Panchayat or the State due to the illegal actions of the petitioner and make an order for recovery thereof from Satish Chander Vashisth.

Heard learned Counsel for the rival parties.

The present case depicts the darker side of the third government contemplated by the Panchayati Raj amendment that was brought to the Constitution. According to Learned Counsel for the petitioner-Sarpanch though the Sarpanch was part of the authority with ADC in the matter of auction of the common lands in the village but it was ADC who entirely was responsible for auction of the common lands at amounts in the peanuts.

According to him, it was thus Satish Chander Vashisth who was responsible

in the entire matter. This court asked a pointed question to the petitioner as to if the ADC was doing illegal and wrong act, would it be possible without his active connivance, there was no answer. The concept of third government contemplated by the Panchayati Raj Act is not to allow Sarpanch to allow acts of omission and commission in the matter of huge tracts of common lands to be utilized in the manner done in the present case.

Following facts recorded in the order as well as the reasons given by the trial court in paragraph 4 are taletelling, which I quote hereunder:-

“As per allegations of the prosecution, Satish Chander Vashisht being posted as ADC (Development) Kapurthala, in connivance with Sarpanch of Gram Panchayat of village Hussainpur Bulley i.e. Kuldeep Singh and others, illegally auctioned the Shamlat land of village Hussainpur Bulley measuring 94 acres 4 kanals to various persons @ 1000/- per acre as lease amount for 7 years, whereas the said land was already auctioned @ Rs.3500/- per acre for one year lease on 24.05.2015. It is further in the allegations of the prosecution that the accused party including Sarpanch Kuldeep Singh applicant/accused had no power to auction the said land. They even did not inform, with regard to the said auction, the office of BDPO, rather they started New Proceeding Book, pertaining to the said matter. As per provisions of Rule 7A(a) of Punjab Village Common Land (Regulations) Rules, the said land was to be auctioned in the presence of BDPO and Panchayat Secretary. Even as per statements of “Patadars”, they had paid excessive amount, but receipts which were issued in their favour, were of lessor amounts. These receipts were issued by Kuldeep Singh Sarpanch and the said entire collected money has not been deposited in the Government Treasury by them, under rules. Huge public money is involved in the case in hand, so this case needs thorough investigation, in which custodial interrogation of applicant/accused Kuldeep Singh Sarpanch is necessary. Specific allegations have been leveled against Kuldeep Singh Sarpanch by various persons, and they have stated that this accused had actively participated in the commission of the offence. No doubt, at one stage this accused Kuldeep Singh was found innocent by the police, but this case is still at the stage of investigation, and there is no bar for the investigating agency to take appropriate action against this accused, if sufficient evidence is there

against him. So at this stage, nothing can be said with regard to innocence of accused/applicant Kuldeep Singh, as alleged by him in this bail application. Keeping in mind the entire facts and circumstances of the case in hand, coupled with gravity of the offence and role attributed to Kuldeep Singh accused/applicant, this court is of the view that no exceptional circumstances are made out in his favour for concession of anticipatory bail. Accordingly, this application deserves dismissal.”

In my opinion, huge tracts of land were thus given for extraneous considerations by the ADC and the Sarpanch, present petitioner, behind the back of the Panchayat Secretary and BDPO. In that view of the matter, there is a prima facie case made out against the petitioner.

Learned Counsel for the petitioner submits that the petitioner and the ADC were found to be innocent by the Investigating Officer. However, the argument does not impress as declaring a person innocent is none of the business of the police and it is for the court to decide whether a person is innocent or not. In that view of the matter, the petition cannot be entertained there being a prima facie case against the petitioner.

The prayer for anticipatory bail is rejected. At the request of Learned Counsel for the petitioner, the ad-interim anticipatory bail granted by this Court on 19th June, 2017 is extended by another two weeks.

August 21, 2017.

kadyan

[A.B. Chaudhari]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No