IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-35031 of 2016 (O&M)
Date of Decision: June 05, 2017

Bhim Singh

....Petitioner

vs.

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. R.S. Bains, Advocate
for the petitioner.

Mr. C.S. Bakshi, Addl. A.G. Haryana.

Mr. Sumit Goel, Advocate for CBI.

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TEJINDER SINGH DHINDSA, J.

Petitioner seeks benefit of regular bail pending trial in case FIR No.05 dated 22.07.2015, under Sections 409, 420, 467, 468, 471, 120-B of Indian Penal Code and Section 13(1)(d) of Prevention of Corruption Act, 1988, registered at Police Station State Vigilance Bureau, District Panchkula.

Counsel for the parties have been heard.

Case of the prosecution is that land situated within Panchkula District, State of Haryana was acquired for Haryana State Industrial and Infrastructure Development Corporation (HSIDC). For disbursing the compensation amount to the land owners, two accounts were opened in the name of Naresh Kumar Sheokand, District Revenue Officer-cum-Land Acquisition Collector, Panchkula in HDFC Bank and Indus Ind Bank. Apparently, two more

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accounts were opened in Punjab National Bank i.e. Sector-8, Branch Panchkula and in Jangpura Extension Branch, New Delhi. Allegations are that a sum of Rs.38 crores approx. stands transferred to private persons and who were not even the awardees as per awards given by the competent Authority. 17 private persons are alleged to have benefitted from such scam. As per prosecution version, there is an involvement of the District Revenue Officer-cum-Land Acquisition Collector, Mr. Naresh Kumar Sheokand as also certain bank officials and one of whom is the present petitioner, namely, Bhim Singh, who was working as Senior Manager in Punjab National Bank, Jangpura Extension, New Delhi.

Petitioner is stated to have surrendered before the Police on 05.10.2015.

It may be noticed that in pursuance to the registration of the FIR, State Vigilance Bureau filed the investigation report under Section 173 of the Code of Criminal Procedure in the year 2016. However, vide notification dated 05.10.2016, investigation in the matter was entrusted to the Central Bureau of Investigation. Consequently, CBI, New Delhi, registered FIR No.2172017 A 0001 on 04.01.2017.

In the light of such development and on oral request made by counsel representing the petitioner, on 28.03.2017, the Central Bureau of Investigation through its Director was impleaded as party-respondent No.2 in this petition.

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Mr. Sumit Goel, Advocate, has entered appearance for CBI and has opposed the prayer made for grant of bail to the petitioner.

Mr. Goel would submit that CBI is now seized of the investigation and which is at a nascent stage. It is contended that the prayer for bail, raised by the petitioner, be declined against the backdrop of the enormity of the scam. It has also been contended that prior to entrusting investigation to CBI, the State Vigilance Bureau had already presented the challan in the year 2016 and as per which, sufficient material was collected to reflect upon the complicity of the petitioner while serving as a Senior Bank Official.

Mr. R.S. Bains, learned counsel would argue that the petitioner has been in custody since 05.10.2015 and the challan had already been presented by the State Vigilance Bureau. He submits that the petitioner is being made a scape goat whereas the real beneficiaries i.e. the private persons and who were not even the awardees as per award, are roaming scot free. Counsel submits that all the transactions insofar as Punjab National Bank, Branch Jangpura Extension, New Delhi is concerned and where the petitioner was serving as Senior Manager were made through proper banking procedure on the basis of documents signed/duly authorised by the account holder i.e. co-accused Naresh Kumar Sheokand, District Revenue Officer-cum-Land Acquisition Collector. Counsel further argues that the prosecution has till date not been able to advert to any material/evidence that would even

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remotely suggest that any sum of money has been misappropriated or has been embezzled by the present petitioner or for that matter of any amount having been diverted by the petitioner without due authorization.

Counsel for the parties have been heard.

It so transpires that Naresh Kumar Sheokand was granted benefit of bail vide order dated 22.09.2016, passed by the learned Additional Sessions Judge, Panchkula. **CRM-M-940 of 2017** i.e. a petition under Section 439(2) of the Code of Criminal Procedure, has been filed in this Court, seeking cancellation of regular bail granted to Naresh Kumar Sheokand. Such petition is pending consideration.

During the course of hearing, it has gone un-controverted that in the petition seeking cancellation of bail to co-accused Naresh Kumar Sheokand and filed by the State of Haryana and now being pursued by Central Bureau of Investigation, it has been specifically pleaded that it was Naresh Kumar Sheokand who in his capacity as District Revenue Officer authorized disbursal of money to the tune of crores of rupees to the private persons who were not awardees of the acquired land. In the petition seeking cancellation of bail it is also the case of prosecution that it was co-accused Naresh Kumar Sheokand, District Revenue Officer-cum-Land Acquisition Collector, who had signed the account opening forms of various bank accounts. The specific pleading in the petition filed under Section 439(2) Cr.P.C. is to the following effect:-

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2017.06.05 13:25
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> *" That as per record accused Naresh Kumar Sheokand had signed all the account opening forms, cheques and authorisation orders for disbursement of public money to the private persons who were not awardees of the acquired land".*

Such pleadings at the hands of the prosecution before this Court and in a petition seeking cancellation of bail to Naresh Kumar Sheokand, District Revenue Officer-cum-Land Acquisition Collector, prima facie lends credence to the stand taken on behalf of the petitioner that he had acted in discharge of his duties and responsibilities as a Senior Manager of the Punjab National Bank, Jangpura Extension, New Delhi and as per banking norms.

That apart a piquant situation has arisen in the present case and which would also require notice.

After entrustment of investigation to the Central Bureau of Investigation, an application was moved by CBI on 02.02.2017 before the learned Additional Sessions Judge, Panchkula seeking all the documents and statements of witnesses pertaining to FIR No.5 dated 22.07.2015, registered in Police Station State Vigilance Bureau, Sector 17 Panchkula as the same formed part of the final investigation report under Section 173 Cr.P.C. that had already been filed. Under such circumstances, the matter is stated to have been referred to the Court of Special Judge, CBI Haryana at Panchkula. However, the said Court, vide order dated 21.02.2017, sent the matter back to the Court of Additional Sessions Judge, Panchkula with the observations that CBI has not filed any report

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2017.06.05 13:25
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before the Special Judge, CBI Haryana and the said Court, as such, is unable to take cognizance of the offence. Under such circumstances on 23.02.2017, the Additional Sessions Judge, Panchkula has made a reference to the Punjab and Haryana High Court, Chandigarh, under Section 395 of the Code of Criminal Procedure seeking guidance that consequent to the registration of FIR by the CBI at New Delhi which of the two Courts i.e. the Additional Sessions Judge, Panchkula or the Special Court CBI Haryana at Panchkula would proceed further in the matter.

The afore noticed factual premise clearly indicates that the Central Bureau of Investigation for all intents and purposes is yet to commence investigation.

The petitioner has faced incarceration since 05.10.2015.

For the reasons recorded above and coupled with length of incarceration already suffered, the petitioner is held entitled to the benefit of bail. Petitioner be enlarged on bail subject to satisfaction of trial Court/Duty Magistrate, Panchkula.

It is, however, made clear that the observations made in this order are confined only as regards considering the prayer of the petitioner for grant of bail and would have no bearing on the merits of the case.

(TEJINDER SINGH DHINDSA)
JUDGE

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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