

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

CRM No. M-11824 of 2018 (O&M)

Date of Decision: 02.04.2018

Mohammad Suhail Chauhan

... Petitioner

Versus

State of Punjab

... Respondent

CRM No.M-13147 of 2018

Surinder Singh

... Petitioner

Versus

State of Punjab

... Respondent

CRM No.M-13145 of 2018

Darshan Singh

... Petitioner

Versus

State of Punjab

... Respondent

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

Present:- Mr. Bipin Ghai, Senior Advocate with
Mr. J.S.Mehndiratta, Advocate,
for the petitioner in CRM No.M-11824 of 2018.

Mr. R.S.Rai, Senior Advocate with
Mr. N.S.Mahal, Advocate,
for the petitioner in CRM No.M-13147 of 2018.

Mr. Vikas Bahl, Senior Advocate with
Mr. Parvinder Singh, Advocate,
for the petitioner in CRM No.M-13145 of 2018.

Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab.

TEJINDER SINGH DHINDSA, J.

This order shall dispose of CRM No.M-11824 of 2018

(Mohammad Suhail Chauhan Vs. State of Punjab), CRM No.M-13147 of 2018 (Surinder Singh Vs. State of Punjab) and CRM No.M-13145 of 2018 (Darshan Singh Vs. State of Punjab) as these three petitions have been filed under Section 438 Cr.P.C. seeking concession of pre arrest bail to the petitioners herein and arise out of FIR No.02 dated 20.02.2018, under Sections 409, 420, 465, 467, 471 and 120-B IPC and Sections 13 (1) (d) read with Section 13 (2) of Prevention of Corruption Act, registered at Police Station Vigilance Bureau, Phase-I, Mohali, District SAS Nagar, Punjab.

At the outset, it may be noticed that notice had been issued on 21.03.2018 in CRM No.M-11824 of 2018 (Mohammad Suhail Chauhan Vs. State of Punjab) and State counsel had accepted notice on the asking of the Court. State counsel, however, has assisted this Court even in the other two connected petitions.

FIR has been registered on the allegations of embezzlement of huge sums of money during purchase of land in the name of Gram Panchayat, Village Jheorheri from funds that had become available on account of an earlier acquisition of 36 acres of village common land.

Counsel representing Surinder Singh i.e. petitioner in CRM No.M-13147 of 2018 submits that it is a case of false implication. Petitioner is the victim of a deep rooted conspiracy and at the hands of his political opponents. It is contended that the petitioner owes allegiance to Shiromani Akali Dal (Badal) and with the change of the political regime he is being hounded by his

opponents and particularly the MLA of Fatehgarh Sahib. Further argued that signatures of the petitioner are not there on any of the documents pertaining to the deals regarding purchase of land by Gram Panchayat Village Jheorheri and as such the involvement of the petitioner is ruled out. It is argued that there is no allegation against the petitioner being a beneficiary of the alleged embezzlement. The ingredients of the offence of conspiracy are not made out in the present case and as such petitioner is entitled to the concession of anticipatory bail.

Counsel representing Mohammad Suhail Chauhan i.e. petitioner in CRM No.M-11824 of 2018 has reiterated the contentions raised by counsel representing the co-accused Surinder Singh. It is contended that the petitioner has been roped in only for the reason that co-accused Surinder Singh who is Sarpanch of Village Mullepur, District Fatehgarh Sahib happens to be his maternal uncle.

Senior counsel representing Darshan Singh i.e. petitioner in CRM No.M-13145 of 2018 would argue that the petitioner has no connection with the sale deed dated 03.04.2017 in favour of Gram Panchayat, Jheorheri as he was not even the vendor of the immovable property at Village Sanauli i.e. subject matter of the sale deed. It is contended that the petitioner has clean antecedents and has been involved only for the reason that he is the co-brother of Gurpal Singh, Sarpanch of Village Jheorheri. Further argued that the allegations contained in the FIR are founded on documentary evidence and which is already in

possession of the Investigating Agency and as such his custody would not be required for any purpose.

Counsel for the parties have been heard.

Basis for registration of the FIR would require notice.

36 acres of land of Gram Panchayat Jheorheri was acquired by the State for expansion of Chandigarh airport.

Compensation was given @ Rs.1.50 crore per acre i.e. a total of Rs.54,16,87,500/- vide cheque dated 04.07.2008. Such compensation amount was kept at the disposal of the Director Rural Development and Panchayat Department, State of Punjab. Gurpal Singh was elected as Sarpanch of Village Jheorheri in the year 2013. Under his tenure, Gram Panchayat passed resolution No.01 dated 11.09.2015 proposing purchase of cultivable land within the radius of 15 km at a price fixed by the District Price Fixation Committee. Another resolution bearing No.02 dated 11.09.2015 was also passed carrying the proposal to be sent to the Government through Block Development and Panchayat Officer for purchasing booth and show room sites abutting the boundary of the village. Both resolutions of even date i.e. 11.09.2015 proposing purchase of cultivable land and commercial sites was out of the funds received on account of acquisition of village common land. Based upon the resolutions, BDPO Kharar sent a proposal to District Development and Panchayat Officer, Mohali and which was further forwarded to Divisional Deputy Secretary Rural Development and Panchayat. The proposal, however, was sent back for removal of certain objections. It is stated that

proposals did not meet the administrative written approval from the competent authority under the State Government. In the interregnum, Gram Panchayat Jheorheri passed a resolution on 06.12.2016 and sent the same directly to the Director Rural Development and Panchayats seeking approval for purchasing cultivable land as also certain commercial property in urban area and by utilising Rs.15 crores out of the compensation amount received by Gram Panchayat Jheorheri. Acting on the basis of such resolution Sh. S.S.Bains, Director Rural Development and Panchayat is stated to have issued a cheque dated 17.02.2016 for Rs.15 crores under memo No.868 dated 15.02.2016 to Gram Panchat Jheorheri.

Precise allegations are that the afore noticed amount of Rs.15 crores having become available, a modus operandi was adopted and 04 sale deeds were executed pertaining to villages Karimpur, Kandipur and Village Sanauli and whereby immovable property was purchased in the name of Gram Panchayat Jheorheri wherein the actual deal struck was at a lower price but the sale consideration amount reflected in the sale deeds was marked up substantially and the amount constituting the difference between the two rates was embezzled.

In specific terms sale deed No.42 and sale deed No.43 dated 06.04.2016 were executed in which Jagjit Singh, Swarn Kaur, Harbhajan Singh and Navneet Singh sold 165 kanals 18 marlas of land in village Karimpur and Kandipur to Gram Panchayat Village Jheorheri. The deal for such land is stated to have been settled for

Rs.29, 50,000/- per acre and on the basis of the same the payment to be made over to the vendors/seller party came to be Rs.06 crores 11 lacs approximately. On the other hand purchase of this land by Gram Panchayat Jheorheri has been shown to be @54 lacs per acre and thereby reflecting a total pay out of Rs.11 crores 20 lacs approximately. The difference between the two amounts i.e. Rs.05 crores approximately is stated to have been embezzled. Another vendor is Harpal Singh who sold 35 kanals, 1-1/3 marlas vide sale deed No.139 dated 27.04.2016 to Gram Panchayat Jheorheri. The deal for this land was done @ Rs.23 lacs per acre and according to which the payment made over to the seller comes to Rs.01 crore 5 lacs approximately whereas the purchase by Gram Panchayat Jheorheri was reflected @ 54 lacs per acre reflecting a pay out of Rs.2 crores 43 lacs approximately and the difference of Rs. 01 crore 37 lacs having been siphoned.

As per prosecution, the embezzlement has been done by accused Guralp Singh, Sarpanch Village Jheorheri, Malwinder Singh, BDPO Kharar, Ravinder Singh, Panchayat Secretary Gram Panchayat Village Jheorheri (who allegedly signed the cheques for payment). Surinder Singh (Petitioner in CRM No.M-13147 of 2018) and Mohammad Suhail Chauhan (Petitioner in CRM No.M-11824 of 2018) are stated to be the brokers and who had facilitated the deals in question.

That apart 6700 Sq. Yds. land is stated to have been purchased in Village Sanauli vide Vasika No.30 dated 03.04.2017 and wherein a sum of Rs.10 crores 11 lacs was paid by Gram

Panchayat Jheorheri. Even pertaining to such deal and by adopting the same very modus, an embezzlement of Rs.1 crore 50 lacs is alleged. The vendors in such deals are stated to be Darshan Singh son of Bachan Singh and Swaran Singh son of Ramji Dass and the difference between the actual sale consideration amount and the marked up price reflected in the sale document is alleged to have been passed on to Gurpal Singh Sarpanch Village Jheorheri through Darshan Singh son of Pal Singh i.e. petitioner in CRM No.M-13145 of 2018 and who happens to be his co-brother.

During the course of arguments, learned State counsel adverted to the statements recorded of Sh. Navneet Singh and Harpal Singh who were the vendors in the land purchased by Gram Panchayat Village Jheorheri.

Navneet Singh has stated that agreement for sale of land measuring 21 acres vide Vasika No.42 dated 06.04.2016 and Vasika No.43 also dated 06.04.2016 was effected @ Rs.29, 50,000/- per acre with Gram Panchayat Village Jheorheri. At the time of scribing of the agreement, the accused party including Gurpal Singh Sarpanch Jheorheri, Malwinder Singh BDPO Kharar, Surinder Singh Broker, Ravinder Singh Village Development Officer and certain other persons informed that they had a bank cheque of value of Rs.6 crores but would actually be paying only a sum of Rs.01 crore. Accordingly, an account was opened in HDFC Bank, Bassi Pathana in the name of grand-father of Navneet Singh and an amount of Rs.06 crores was got deposited through cheques. Immediately, thereafter a sum of Rs.05 lacs was got withdrawn

from the newly opened account and the same was handed over to Gurpal Singh Sarpanch, BDPO and the Panchayat Secretary. At that stage even Mohammad Suhail Chauhan i.e. nephew of Surinder Singh, broker was present. However, on the date of registration of the sale deed, it was found that the rate of land had been mentioned at Rs.54 lacs per acre instead of Rs.29,50,000/-. Upon an objection having been raised, the vendors were confronted by stating that a sum of Rs.06 crores had already been deposited in the new account and therefore the sale deed could be got executed even by filing a case in the Court. Faced with such a situation the sale deeds were executed and the actual payments made over to the vendors was @ Rs.29,50,000/- per acre. A similar modus is reflected from the statement of Harpal Singh who was the vendor as regards land measuring 36 kanals situated in Village Karimpur.

Learned State counsel informs the Court that the statement of Navneet Singh as also Harpal Singh vendor have found corroboration upon verification of the banking transactions from the accounts in question. Petitioners Surinder Singh and Mohammad Suhail Chauhan are alleged to have facilitated the deals in question. State counsel submits that even though the vendors as regards 6700 sq. yards land in Village Sanauli are Darshan Singh son of Bachan Singh and Swarn Singh vide sale deed dated 03.04.2017 yet the statement of account of the petitioner, namely, Darshan Singh son of Pal Singh reflects receipt of Rs.4 crores in his bank account on 03.04.2017 from Darshan

Singh son of Bachan Singh and Swarn Singh.

State counsel would contend that this very amount was the embezzled sum of money and which has been routed to Gurpal Singh, Sarpanch of Village Jheorheri through petitioner Darshan Singh son of Pal Singh and who happens to be his co-brother (Sandu).

Having heard counsel for the parties at length, this Court is not inclined to extend in favour of the petitioners in these three connected petitions the concession of pre arrest bail.

There is a serious issue as regards the competence of the State official i.e. the Director Rural Development and Panchayat, State of Punjab in having acted upon a resolution dated 01.02.2016 passed by Gram Panchayat Jheorheri for purchase of cultivable land as also the commercial site and for utilizing Rs.15 crores out of the compensation amount that had been received. Such proposal is stated to have not been routed through proper channel. The Director is stated to be lacking the power to sanction funds to the tune of Rs.15 crores. The resolution dated 01.02.2016 was passed at a stage when Gurpal Singh was the Sarpanch of Village Jheorheri.

Co-accused Malwinder Singh BDPO, Jatinder Singh, Gurbrinder Singh Sarao and Ravinder Singh Panchayat Secretary are stated to have already been arrested. Investigation is stated to be at a crucial stage. Land is stated to have been purchased by Gram Panchayat Jheorheri @ Rs.53-54 lacs per acre whereas the Collector rate of land of Village Karimpur and Kandipur for the

year 2016-17 was pegged at Rs.9.77 lacs per acre. The Investigating agency has verified the banking transactions pertaining to new accounts having been opened and heavy sums of money having been deposited by way of cheque and substantial amount out of such deposit having been withdrawn by way of cash immediately thereafter. Such banking transactions corroborate the statements made by vendors Navneet Singh and Harpal Singh.

Prima facie such transactions lend credibility to the prosecution version that actual deal finalized with the vendors was at a much lower rate as compared to the marked up price mentioned in the sale documents. Difference of the amount is alleged to have been embezzled by all the accused in connivance and in conspiracy with each other.

Petitioners Surinder Singh in CRM No.M-13147 of 2018 and Mohammad Suhail Chauhan in CRM No.M-11824 of 2018 were stated to have acted as Brokers and having facilitated the deals in question. The vendors have specifically named them.

Insofar as Darshan Singh son of Pal Singh (petitioner in CRM No.M-13145 of 2018) heavy amount i.e. Rs.04 crores has been reflected in his bank account and from vendors, namely, Darshan Singh son of Bachan Singh and Swarn Singh who had sold 6700 Sq. Yards plot to Gram Panchayat Jheorheri.

Court has been informed that even the new bank accounts opened in HDFC Bank where such heavy and suspicious transactions took place did not carry the necessary approval from the superior banking officials and as such the role of certain bank

officials is also under the scanner.

The allegations in the FIR are serious in nature. The same are reflective of a scam. The matter certainly requires a deep and thorough probe and which may well entail custodial interrogation of the petitioners herein.

Without making any observations on merits of the case lest the same may influence the course of investigation, prayer seeking concession of pre arrest bail to the petitioners in these three connected petitions is declined.

Petitions dismissed.

A copy of this order be placed on the file of connected case.

02.04.2018

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No