

Sr. No.202

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

CRM-M-25682-2018

Date of decision: 21.06.2018

Darshan Singh

.....Petitioner

versus

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

Present: Mr. Karanvir Singh Khehar, Advocate
for the petitioner.

Dr. Malika Singh, AAG, Punjab.

Rajbir Sehrawat, J.(Oral)

Present petition has been filed by the petitioner praying for grant of anticipatory bail in FIR No. 02 dated 20.02.2018 under Sections 409/420/465/467/471/120-B IPC and Section 13(1)(d) read with Section 13 (2) of the Prevention of Corruption Act, 1988, Police Station Vigilance Bureau, Phase I, Mohali(SAS Nagar).

In brief, the allegations as contained in the FIR are that the Gram Panchayat of village Jheorheri had got money from the Government on account of acquisition of its land for the expansion of Airport, Chandigarh. That money was lying in the account of Gram Panchayat. Sarpanch of the Gram Panchayat has purchased various parcels of land in the name of Gram Panchayat out of this money. For some of these purchases, Director, Panchayats Punjab had given specific approval. In the same chain of purchases the Sarpanch of Gram Panchayat, Jheorheri also purchased land measuring 6 bighas 14 biswas from the petitioner as well,

for a consideration of Rs. 10,11,70,000/- which turns out to be @ Rs.15,400/- per sq. yard. It is alleged in the complaint that the purchase from the petitioner has been made by the Sarpanch without specific approval from the Director of Panchayats and further that the consideration paid to the petitioner for purchase is exorbitant and much more than the market rate.

While arguing the case, learned counsel for the petitioner has submitted that the petitioner was absolute owner of the land which is mentioned in the sale to the Gram Panchayat. Sale has been effected through a duly registered sale deed in the name of Gram Panchayat. Whatever consideration petitioner has received; has been duly reflected in the sale deed. It is further contended that while selling the property the petitioner has not made any misrepresentation regarding the nature, character or any incidence of the land. Still further learned counsel submits that as per the letter(Annexure P-4), Naib Tehsildar, Zirakpur himself has verified the market rate of the land in village Sanauli, where the present land is situated, to be approx. Rs. 14000 to 17000 per sq. yard. Therefore, the consideration received by the petitioner is as per the normal rates only. Therefore, there is no illegality involved in the matter, much less any criminality. He has wrongly been hauled up and sought to be involved in the criminal case by the police.

Contesting the case of the petitioner, learned State counsel has argued that the Sarpanch has purchased the land without any specific approval from the Director, Panchayats Punjab. Sarpanch was not authorised to purchase the land of the petitioner without prior approval of the Director. The petitioner has actively connived in making excess payment

of money by the Sarpanch to the petitioner. Still further it is contended by learned counsel that in fact the excess money was paid to the petitioner as consideration for the land in question. Out of that consideration; i.e. money received by the petitioner; on the same day, the petitioner has paid back some of the amount to a person, who allegedly is related to the Sarpach of the village. It is further contended by learned counsel that the documents relating to the transaction are yet to be recovered from the petitioner. Therefore, petitioner does not deserve any concession of anticipatory bail.

Having heard learned counsel for the parties and perusing the record, this Court is of the considered opinion that prima facie there does not appear to be any criminal aspect in the matter. The petitioner, as a contracting party; while selling his property, is fully entitled to extract as much value for its property as he can, provided that he does not make any misrepresentation regarding the nature and character of the property. In the present case also, admittedly there is no misrepresentation by the petitioner qua the nature and character of the property. Whatever price he has received is duly reflected in the registered sale deed. A due stamp duty has already been paid thereon. Hence there is nothing criminal in the conduct of the petitioner as such. So far as the question of obtaining prior sanction from the Director Panchayat is concerned, it is a matter between the Sarpanch of the village who purchased the property from the petitioner and the Director, Panchayat. The petitioner as a contracting party is not concerned with the internal matter between the Sarpach and the Director. He is concerned only with the fact that he is selling the property and receiving consideration therefrom.

Otherwise, also it is borne from the record that the price

received by the petitioner is not excessive by any means. The petitioner has placed on record the letter Annexure P-4. It is a communication to the Deputy Commissioner by Naib Tehsildar, Zirakpur, intimating the prevalent market rate in the village Sanauli, where the land in question is situated, to be forwarded to the District Development and Panchayat Officer, pursuant to the query raised by the latter. This letter written by the Naib Tehsildar, speaks that the prevalent market rate in the area is ranging approx. from Rs. 14000 to 17000 per sq. yard. In the present case, the petitioner has received a consideration for selling his land @15,400/- per sq. yard. Therefore, the consideration received by the petitioner is well within the market value assessed and communicated by the Naib Tehsildar-cum-Sub-Registrar of the area; where the sale deed was registered.

So far as the argument of learned State counsel, that the petitioner had paid some money to some person relating to the Sarpanch is concerned the same is totally irrelevant for the present case. It is not the concern of the prosecution in what manner the petitioner deals with his money after selling his property through a duly registered sale deed. Otherwise also, there can be many reasons for making payment by the petitioner to any person. Even if the payment happens to have been made to some person indirectly related to the Sarpanch, that would not make the sale by the petitioner to be illegal or involving criminal aspect in it.

Further more, the entire case is document based case. Therefore, whatever record prosecution requires, that is easily available either in the office of the Registrar/Sub-Registrar where the sale deed is registered or in the records of the Gram Panchayat or with the Bank. Therefore, the custodial interrogation of the petitioner is not strictly

required.

In view of the above, the present petition is allowed. The petitioner is granted the concession of anticipatory bail. It is directed that in the event of arrest by the Investigating Officer in the connection of this case, the petitioner be released on bail subject to his furnishing personal bonds/surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

It is further clarified that nothing observed in this order shall be deemed to be an expression on merits of the case for any other purpose.

Disposed off.

21st June, 2018

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*