

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

CRM-M-40338-2016 (O&M)

Date of decision: 18.01.2018

Balbir Singh

... Petitioner

Vs.

State of Punjab

... Respondent

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

Present: Mr. Vipin Mahajan, Advocate for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

This order shall dispose of the instant petition filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioner in case FIR No.138, dated 13.10.2016, under Section 420 IPC and Sections 7/13(2) of the Prevention of Corruption Act, registered at Police Station City Batala, District Gurdaspur.

While issuing notice of motion on 11.11.2016, the following order was passed by this Court:

“Petitioner apprehends arrest in a case registered at the instance of Ravel Singh alleging that the petitioner had obtained bribe of Rs.12,25,000/- from the complainant for recording the mutation in his favour.

Learned counsel for the petitioner submits that the cost of the land measuring 3 kanals 17 marlas regarding which mutation was entered is valued not more than Rs.10 lacs per killa.

Notice to Advocate General, Punjab for 13.01.2017.

At this stage, Mr. Tarun Vir Singh Lehal, Advocate, has

put in appearance on behalf of the complainant.

Meanwhile, an interim direction is issued that the petitioner will join investigation on 26.11.2016 and 03.12.2016. In case of petitioner doing so, he will be released on interim bail to the satisfaction of the arresting officer.

Counsel for the complainant will be at liberty to raise arguments, on the next date of hearing.”

Thereafter, the matter came up for hearing on 15.03.2017 and the following order was passed:

“At the very outset, Mr. Tarunveer Lehal, Advocate makes a statement that he has no instructions in the matter and as such, prays for withdrawal of the Memo of Appearance that he had filed on behalf of the complainant.

Prayer is allowed.

The petitioner is a revenue official holding the post of Patwari. Allegations against the petitioner are that he had raised a demand of illegal gratification of an amount of Rs.12,25,000/- for sanctioning of a mutation. Apparently, the FIR came to be registered in the year 2016 in pursuance to an inquiry conducted by the S.P.(D), Batala. Perusal of the FIR, which is otherwise a recital of the inquiry report itself is completely silent as regards the date/point of time when such alleged demand of illegal gratification was raised.

Such information would be vital in the light of one of the submissions raised by counsel for the petitioner that the mutation in question had already been entered by the petitioner in the year 2012-2013 and which thereafter had been sanctioned by the appropriate authority and as such, there was no occasion for demand of bribe money.

Learned State counsel prays for time to complete instructions on such aspect.

List on 03.05.2017.

Interim protection to continue till the next date of

hearing.”

Learned State counsel, who is on instructions from HC Gajjan Singh has not been able to controvert the assertion made by counsel representing the petitioner that the mutation was entered by the petitioner in the name of father of the complainant pertaining to 3 kanals and 17 marlas in the year 2012 whereas the present FIR has been lodged only in the year 2016. Learned State counsel concedes that even in the statement recorded of the complainant, there are no details coming forth with regard to the date/point of time of the alleged demand of illegal gratification for entering of mutation.

I find sufficient merit in the submission raised by Mr. Vipin Mahajan, Advocate that under such circumstances wherein the mutation had already been entered in the year 2012, there was no occasion for demand of illegal gratification.

It also stands conceded that the petitioner otherwise has joined investigation.

Under such circumstances, custodial interrogation of the petitioner would not be warranted.

Petition is allowed. Order dated 11.11.2016 passed by this Court is made absolute.

18.01.2018

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**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |