

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

Date of Decision: 04.02.2020

1. CRM-M No.52627 of 2019(O&M)

Dilbag Singh

.....Petitioner

Versus

State of Punjab

.....Respondents

2. CRM-M No.53802 of 2019(O&M)

Surinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. P.S. Ahluwalia, Advocate
for the petitioner in CRM-M No.52627 of 2019.

Mr. Munish Puri, Advocate
for the petitioner in CRM-M No.53802 of 2019.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

RAJ MOHAN SINGH, J.

CRM Nos.963 and 984 of 2020

Allowed as prayed for.

Offences under Sections 393, 411, 412, 201 and 120-B IPC in CRM-M No.52627 of 2019 and Sections 379-B(2) read with Section 34 IPC, Section 409 IPC read with Section 120 IPC and Section 13(1) of Prevention of Corruption Act in CRM-M No.53802 of 2019 are ordered to be incorporated.

Main case(s)

[1]. Vide this common order, CRM-M No.52627 of 2019 titled Dilbag Singh Vs. State of Punjab and CRM-M No.53802 of 2019 titled Surinder Singh Vs. State of Punjab are being decided. Facts are being culled out from CRM-M No.52627 of 2019.

[2]. In CRM-M No.52627 of 2019, prayer is for grant of regular bail in case bearing FIR No.1 dated 12.04.2019 registered under Sections 406, 34 IPC, Sections 13(1)(a) and 13(2) of Prevention of Corruption Act (Sections **393**, 411, 412, 201 and 120-B IPC added later on) at Police Station State Crime, District Crime Wing, SAS Nagar, Mohali.

[3]. In CRM-M No.53802 of 2019, prayer is for grant of regular bail in case bearing FIR No.1 dated 12.04.2019 registered under Sections 392, 34, 120-B, 411, 412, 201 IPC and Section 13(1)(a) read with Section 13(2) of Prevention of Corruption Act (Sections 379-B(2) read with Section 34 IPC, Section 409 read with Section 120 IPC and Section 13(1) of

Prevention of Corruption Act added later on) at Police Station State Crime, District SAS Nagar, Mohali.

[4]. The FIR in question came to be registered at the instance of complainant Anthony Madassary. As per prosecution case, the complainant is a partner in firm M/s Sahodhaya. The firm was dealing in sale and purchase of stationary items which were being provided to number of schools run by Diocese Jalandhar in all over the Punjab. Sale proceeds were being collected at the house of the complainant. 30 unidentified persons in police uniforms came to the house of the complainant and took away the amount. It was alleged by the complainant that the total amount of Rs.16,36,54,988/- was taken away by the aforesaid persons. However, an amount of Rs.9,66,00,000/- was given to the Income Tax Department. In this manner, the police officials have misappropriated an amount of Rs.6,65,00,000/-. The FIR came to be registered with this background.

[5]. The complainant further alleged that those persons were armed with deadly weapons and in the presence of bank officials, they snatched their mobile phones and even Mr. Roger was also taken away illegally. The entire cash amount was removed. The total amount of collections of the said firm was Rs.30,34,54,988/- and out of the aforesaid amount, an amount

of Rs.14,00,00,000/- had been deposited with the South Indian Bank. The officials of the aforesaid bank were counting the Indian currency to take the same for deposit in the account of the firm. The complainant also alleged that he was kept in wrongful custody by the police officials of S.S.P. Khanna. The amount was duly reflected by way of receipts and accounts.

[6]. During investigation, ASI Joginder Singh made a disclosure statement that on 29.04.2019, the huge amount which the aforesaid ASI Joginder Singh, ASI Rajpreet Singh and Surinder Singh had taken away was separated in terms of currency notes of denomination of Rs.2000/- and Rs.500/- on the way and they put the same in a gunny bag and polythene bag. On the way, ASI Joginder Singh called for a Swift Dzire Car from the petitioner who is also serving as ASI in police department and at that time, he was posted at Sanjh Kendar, Patiala. Since the petitioner is friend of ASI Joginder Singh, he was called to bring his car at Grain Market, Khanna on the excuse that the car of ASI Joginder Singh has met with an accident. ASI Joginder Singh dropped the petitioner at Grain Market, Khanna and came along with his Swift Car towards the place where his Verna Car was present. ASI Joginder Singh, ASI Rajpreet Singh and Surinder Singh took out both the bags full of separated notes from Verna Car and put the same in Swift

Car. They parked the car at Khalsa Petrol Pump, Khanna after locking the same. The currency notes of lower denomination were about Rs.5-7 lacs which were brought from Partapura and the same were deposited by them at CIA Khanna. ASI Joginder Singh and ASI Rajpreet Singh took both the cars from Khalsa Petrol Pump and went to the house of ASI Joginder Singh in Urban Estate, Patiala and in the presence of wife of ASI Joginder Singh, they spread out the looted amount on the bed and made three heaps. ASI Joginder Singh gave one heap to Rajpreet Singh and other two heaps were kept by him for himself as well as for Surinder Singh. ASI Joginder Singh further revealed that he had given an amount of Rs.40,00,000/- to his friend Surinderpal @ Chidi son of Ram Saroop, an amount of Rs.20,00,000/- to his friend Mohd. Shakeel, an amount of Rs.20,00,000/- to his friend Commission Agent Davinder Kumar @ Kala and an amount of Rs.30,00,000/- to his relative Sanjeev Kumar. Similarly, ASI Rajpreet Singh also made a disclosure statement.

[7]. During investigation, Investigating Agency has recorded statements of various witnesses. It has come on record that as per report of Special Investigation Team (SIT) under the Chairmanship of IGP Crime-I, Inspector Gurdeep Singh was Incharge of the police party who raided the house of the

complainant. Co-accused Joginder Singh, Rajpreet Singh and some other police officials were part of police party as advance party. Inspector Gurdeep Singh was Incharge of the raiding party who got his statement recorded before the SIT that he had raided the place only as per the message received by him from the co-accused ASI Rajpreet Singh and ASI Joginder Singh who were also present at FMJ House Partapura, Jalandhar before he reached there. Incharge Gurdeep Singh also disclosed that ASI Rajpreet Singh, ASI Joginder Singh and one private man Surinder Singh came separately in a white car make Verna along with some cash. They never informed him about the recovery of more amount of cash.

[8]. Learned counsel for the petitioner submitted that co-accused Gurpreet Singh has been granted regular bail by Special Judge, SAS Nagar Mohali vide order dated 30.05.2019 from whom an amount of Rs.1.5 lacs was recovered. Co-accused Amandeep Singh Kamboj @ Ishu has been granted regular bail by the High Court in CRM-M No.43807 of 2019 on 18.11.2019. The aforesaid Amandeep Singh Kamboj @ Ishu is a friend of main accused ASI Joginder Singh and ASI Rajpreet Singh. ASI Joginder Singh had given some misappropriated amount to him. An amount of Rs.2,87,500/- was got recovered from his house after his arrest on 14.06.2019. Similarly,

Davinder Kumar @ Kala has also been granted regular bail by the High Court in CRM-M No.44032 of 2019 on 27.11.2019. He is also friend of ASI Joginder Singh and ASI Rajpreet Singh. Some misappropriated amount was also given to him. On his arrest, an amount of Rs.30,00,000/- was also got recovered from his house.

[9]. The car of the petitioner was used by the main accused ASI Joginder Singh and ASI Rajpreet Singh. He was not the member of the raiding party. The cash amount was shifted from Verna Car to the car of the petitioner. Petitioner came back to his house after handing over the car to the main accused. As per disclosure statements of main accused ASI Joginder Singh and ASI Rajpreet Singh, the car of the petitioner was used. Petitioner was not named in the FIR, nor any recovery has been effected from him despite police remand of 5 days.

[10]. Learned counsel further submitted that in addition to the co-accused Amandeep Singh Kamboj @ Ishu and Davinder Kumar @ Kala, two more accused namely Mohd. Shakeel @ Khan and Gurwinder Singh @ Garry have also been granted regular bail by the High Court in CRM-M No.27154 of 2019 and CRM-M No.52030 of 2019 on 10.12.2019 and 12.12.2019 respectively. Petitioner was arrested on 24.04.2019. Charges have been framed. Petitioner has been chargesheeted under

Sections 212, 409 read with Section 109 IPC and Section 12 of the Prevention of Corruption Act.

[11]. On the other hand, learned State counsel stated that the petitions filed by the petitioner were ordered to be dismissed as withdrawn on 02.07.2019 and 03.09.2019. After filing of the challan, charges have been framed. Heavy amount has been misappropriated by the police party and the petitioner was in contact with the main accused.

[12]. Having heard learned counsel for the parties, it can be noticed that despite police remand of 5 days, nothing has been recovered from the petitioner. Petitioner provided his car to the main accused being friend of ASI Joginder Singh. No overt-act has been attributed to the petitioner in the FIR and in the disclosure statements of ASI Joginder Singh and ASI Rajpreet Singh. Petitioner remained in touch with ASI Joginder Singh and his complicity would be debatable as to whether he was having some knowledge of the looted money or not, particularly when nothing was paid to him and no recovery has been effected from his house. Petitioner Dilbag has not been chargesheeted for the offences under Sections 379-B, 392/34 IPC. Since the charges have been framed on 08.01.2020 i.e much after the withdrawal of the earlier petitions filed by the petitioner and the petitioner is in custody since 24.04.2019, therefore, the case of the petitioner

can be considered for grant of regular bail, particularly when regular bail has been granted to other co-accused, who had shared the booty to some extent. Out of the three categories, first category is of the persons who actually looted the amount. Second category is of the persons who shared the booty and third category is of the persons like the petitioner who did not participate in the raiding process, neither paid anything, nor any recovery was effected from them. Petitioner Surinder Singh is in custody since 17.04.2019. He is a civilian and no share was given to him.

[13]. In **Sanjay Chandra Vs. CBI, 2011(4) RCR (Criminal) 898**, the Hon'ble Apex Court has held that when an under-trial is detained in custody to an indefinite period even in an economic offence, it would be violative of Article 21 of the Constitution of India.

[14]. Challan has already been presented and charges have been framed before the trial Court. The custody of the petitioner(s) is no more required for any further investigation of the case. Trial of the case may take long time in culmination. In such situation, bail can be granted to the petitioner(s) on stringent condition in order to ward off any apprehension of the prosecution that the petitioner(s) may flee from justice.

[15]. At this stage, without forming any opinion on merits of

the case, petitioners are directed to be released on regular bail on their furnishing heavy bail/surety bonds to the satisfaction of the trial Court. Petitioners shall surrender their passports (if any) before the trial Court.

[16]. Nothing expressed hereinabove, would be construed to be an opinion on merits of the case.

04.02.2020	(RAJ MOHAN SINGH)
Prince	JUDGE
Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No