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

**CRM-M No. 18481 of 2021 (O&M)**
**Date of Decision:16.12.2021**

Rajinder Kumar and another ...Petitioners

Versus

State of Punjab ...Respondent

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. SPS Sidhu, Advocate
for the petitioners.

Ms. Rashmi Attri, AAG, Punjab.

Ms. Reeta Kohli, Senior Advocate with
Mr. Jashan Singh Sekhon, Advocate
for the complainant.

Mr. G.S. Nahel, Advocate
for PACL.

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**JAISHREE THAKUR, J. (ORAL)**

1. Counsel for the petitioners herein seeks relief of regular bail to the petitioners, who are in custody under FIR No.79 dated 16.07.2020 registered under Sections 406, 420, 467, 468, 471 and 120-B IPC at Police Station City Zira, Firozepur.

2. In brief, the facts are that PACL Ltd. (hereinafter referred to as the company) was a company, which induced small investors to invest in the company and with the investments they received, they would buy land in the name of the company and would offer substantial returns to the investors. Over a period of time, Directors of the Company, while receiving funds instead of buying the land in the name of the Company as promised, started siphoning the funds. Apart from siphoning said funds, they also started buying land in the name of their employees and agents. Ultimately, the small investors, who were

duped, raised hue and cry with the result that the matter was investigated by the Central Bureau of Investigation and the Enforcement Directorate, who booked the Directors of the Company by the name of Nirmal Singh Bhangu and others. The Hon'ble Apex Court being seized of the matter entrusted the same to SEBI and formed a Committee under the Chairmanship of retired Chief Justice of India, Hon'ble Mr. Justice R.M. Lodha, who gave certain directions in the said matter. The Lodha Committee as formulated was not able to get details of all the properties bought by the erstwhile Directors of the Company. As the investors in Punjab were deprived of their hard-earned money, they approached the DGP, Punjab to look into the issue and sought for recovery of their investment. It is in this background that the present FIR came to be registered. On due investigation, the police was able to identify some of the buyers and sellers of the land and some of the persons in whose name land had been bought by the Company. Consequently, they were arrested. The petitioner herein is one of these arrested persons, who is before this Court seeking grant of regular bail.

3. Learned counsel appearing on behalf of the petitioners *inter alia* would contend that the petitioner No.2 herein had been cultivating the land of the Company with due authorization from the Company and thereafter, vide sale deed executed on 10.05.2010, petitioner No.1 purchased 8 kanals 8 marlas of land along with one Vikramjit i.e. much prior in time to any complaint being filed by the investors or the matter being taken up by the CBI or ED and therefore, they are *bona fide* purchasers. It is further contended that there is a sale deed on record and enough documentary evidence available to show that money was transferred into accounts of the Company from whom the land had been purchased. It is argued that the CBI was already seized of the matter as far

as the scam that has been perpetuated by the Company and its Directors and all said Directors already stand booked. It is submitted that the second FIR could not have been registered at the behest of the investors in Punjab consequent to which an investigation was done and the petitioners herein arrested. It is also argued that since challan stands presented in a Magisterial trial, all documents as required, are already in possession of the police, their custody would no longer be required. It is also argued that witnesses that have to be examined, would be official witnesses and therefore, petitioners herein, if released on regular bail, would not be in a position to influence them. He relies upon the judgment rendered by the Hon'ble Supreme Court in ***Sanjay Chandra Vs. CBI 2011 (4) RCR (Criminal) 898*** to contend that as the petitioners are in custody for more than 10 months in a magisterial trial, therefore, they ought to be released on regular bail.

4. Learned counsel appearing on behalf of the respondent-State and the complainant would submit that the FIR No.79 dated 16.07.2020 under the aforesaid Sections came to be registered at Police Station City Zira, Firozepur on the allegations made by the small investors that they had been duped of their investments by the Company. It is further contended that there is interpolation and forgery committed by the petitioners herein. The alleged sale deed pertains to 8 kanals 8 marlas of land sold for a pittance whereas there is mutation sanctioned for 78 kanals 8 marlas in favour of the petitioner No.1 and one Vikramjit. It is argued that there is allegation of forgery regarding execution of power of attorney as well.

5. I have heard learned counsel for the parties and perused the paper book.

6. It is an admitted fact that the petitioners herein have not been nominated as accused either by CBI or ED, which are also looking into the scam that has

taken place at the behest of Chairman/Directors of the Company. It is also admitted fact that as on date, petitioners are in custody and the matter has already been investigated and the challan stands presented and therefore, question of interfering in the investigation by the petitioners would not arise. As far as the question of influencing the witnesses is concerned, it would be worthwhile to note that they would be official witnesses, who would be giving their testimony on the basis of documents already in their possession and therefore, possibility of influencing them is far off. The Hon'ble Supreme Court in ***Subhash Chandra's case*** (supra) while granting bail to the accused has held as under:-

> *27) In `Bihar Fodder Scam', this Court, taking into consideration the seriousness of the charges alleged and the maximum sentence of imprisonment that could be imposed including the fact that the appellants were in jail for a period more than six months as on the date of passing of the order, was of the view that the further detention of the appellants as pre-trial prisoners would not serve any purpose.*
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> *28) We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardize the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to ally the apprehension expressed by CBI."*

Therefore, this Court has no hesitation in allowing regular bail to the petitioners, however, with a rider that the petitioner No.1 herein will not sell, alienate or create any third party rights over the land in question.

7. Consequently, the instant petition is allowed. The petitioners are ordered to be released on regular bail on execution of personal bonds of ₹50,000/- and a surety of like amount each to the satisfaction of concerned trial Court/Duty Magistrate. However, it is made clear that any observation made herein shall not be construed to be an expression on merits of the case.

**(JAISHREE THAKUR)**
**JUDGE**

**December 16, 2021**
Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No