

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.19812 of 2021 (O&M)
Date of Decision:15.12.2021

Ram Pal ...Petitioner

Versus

State of Punjab ...Respondent

2. CRM-M No.36215 of 2021 (O&M)

Manoj Kumar and another ...Petitioners

Versus

State of Punjab ...Respondent

3. CRM-M No.23002 of 2021 (O&M)

Buta Ram Sharma ...Petitioner

Versus

State of Punjab ...Respondent

4. CRM-M No.26240 of 2021 (O&M)

Pardeep Kumar ...Petitioner

Versus

State of Punjab ...Respondent

5. CRM-M No.47255 of 2021 (O&M)

Kulwinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

6. CRM-M No.48818 of 2021

Kashmir Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Kuldeep Sheoran, Advocate
for the petitioner in CRM-M No.19812 of 2021.

Mr. P.S. Ahluwalia, Advocate and
Mr. Jagat Vir Dhindsa, Advocate
for the petitioner(s) in CRM-M Nos.36215 and 47255 of 2021.

Ms. Neha Arora Samra, Advocate for
Mr. KPS Dhillon, Advocate
for the petitioner in CRM-M No.26240 of 2021.

Ms. Aashna Gill, Advocate
for the petitioner in CRM-M No.48818 of 2021.

Mr. Kamaldeep Singh Sidhu, Advocate
for the petitioner in CRM-M No.23002 of 2021.

Ms. Rashmi Attri, AAG, Punjab.

Ms. Reeta Kohli, Senior Advocate with
Mr. Jashan Singh Sekhon, Advocate
Mr. Gagandeep Singh, Advocate for
Mr. A.S. Manaise, Advocate
for the complainant(s).

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

-.-

JAISHREE THAKUR, J. (ORAL)

1. By this common order, this Court proposes to decide 6 petitions that have been filed by the petitioner(s) seeking relief of regular bail to them, 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. While deciding these regular bail petitions, it would be apt to note few facts:-

2. 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. It is some of these arrested persons, who are before this Court seeking grant of regular bail.

3. Learned counsel appearing on behalf of the petitioner(s) *inter alia* would contend 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.

4. It is argued that the petitioners herein, who are either drivers, peons or agents of the Company, are not actual beneficiaries of any land sold since

family members of the Directors were present and they took sale proceeds immediately. 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. Counsel for the petitioner(s) in support of their arguments would also rely 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 a period of more than 8-11 months, they ought to be released on regular bail.

5. Learned counsel appearing on behalf of the respondent-State 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 submitted that even though the Lodha Committee was seized of the matter, CBI would not have been able to identify the land, which was held benami by the agents and small time employees of the Company. It is in this background that the FIR came to be registered and the matter investigated.

6. At this stage, appearance has been caused on behalf of the complainant, who strenuously objects to the bail being allowed to the petitioners herein. It is argued that the small time investors have been duped by the Company in so far as their investment had given them no return. It is submitted that the matter is already pending investigation by CBI and ED and the Lodha Committee is seized of the matter and therefore, this Court ought to restrain its hand in

granting regular bail to the petitioners. It is also submitted that though there are 64 persons nominated, only 12 persons have been arrested so far.

7. I have heard learned counsel for the parties and perused the paper book as well as the case laws cited. The gist of the allegations in the FIR and the role of the petitioners is set out as under:-

- (i) In CRM-M No.47255 of 2021 titled as *Kulwinder Singh Vs. State of Punjab* and CRM-M No.48818 of 2021 titled as *Kashmir Singh Vs. State of Punjab*, role attributed to the petitioners is that they were drivers of one of the Directors of the Company namely Nirmal Singh Bhangu, Chairman of PACL and they sold the land standing on their name and the said land was sold in the presence of Gurpreet Singh, nephew of the said Chairman.
- (ii) In CRM-M No.36215 of 2021 titled as *Manoj Kumar and another Vs. State of Punjab*, father of the petitioners namely Shyam Singh was shown to be owner of land measuring 528 kanals in village Mallewal, Tehsil Ballachor, District SAS Nagar, who expired on 12.03.2009, subsequent to which land devolved upon petitioners herein as his legal heirs. It was alleged that they had sold 496 kanals out of said 528 kanals. However, at this juncture, it would be pertinent to note that in the challan presented, it has been mentioned that aforesaid petitioners had not received any consideration.
- (iii) In CRM-M No.23002 of 2021 titled as *Buta Ram Sharma Vs. State of Punjab* and CRM-M No.26240 of 2021 titled as *Pardeep Kumar Vs. State of Punjab*, there is allegation that Buta Ram Sharma had purchased 182 kanals 17 marlas of land from Amrik Singh in the

year 2006 and thereafter, had executed GPA in favour of Pardeep Kumar on 13.03.2019 and said Pardeep Kumar had further sold it. In fact, he had sold the land belonging to the Company.

- (iv) In CRM-M No.19812 of 2021 titled as *Ram Pal Vs. State of Punjab*, the petitioner is a Lambardar, who allegedly identified legal heirs of one G. Tyagrajan, who died and his legal heirs came in to sell the land and the case set up is that the petitioner herein wrongly identified his legal heirs, who in turn executed a GPA in favour of Amodh Kumar Jha, who sold the land.

8. On thoughtful consideration, this Court deems it appropriate to allow regular bail to the petitioner(s) herein for the following reasons:-

- (i) It is an admitted fact that none of the petitioners herein have been nominated as an accused either by CBI or ED, which agencies are also looking into the scam that has taken place at the behest of Chairman/Directors of the Company.
- (ii) 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 in a magisterial trial 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.
- (v) 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.

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 allay the apprehension expressed by CBI."

Therefore, this Court has no hesitation in allowing regular bail to the petitioner(s) with a rider that the petitioners herein will not sell any land as reflected in their names in the revenue records.

9. The apprehension raised by counsel appearing for the complainant that the land standing in the name of various persons (benami holders) is being sold, would be protected by the order passed by the Hon'ble Supreme Court on 25.07.2016 wherein there is a restraint order of any sale, transfer, alienation or even creation of third party interest on the land in any manner whatsoever and therefore, it would be open to the complainant to point out any such sale, transfer or alienation taking place to the investigating officer of current FIR. However, such information must be genuine. It is also worthwhile to mention

here that vide order dated 02.02.2016 passed by the Hon'ble Supreme Court in Civil Appeal No.13301 of 2015 titled as *Subrata Bhattacharya Vs. SEBI*, SEBI has been directed to constitute a Committee for disposal of land purchased by the Company so that interest of the investors can be safeguarded out of the sale proceeds of the said land.

10. Consequently, all the petitions are allowed. The petitioners are directed to be released on regular bail on execution of personal bonds of ₹50,000/- and a surety of like amount in each case by each petitioner 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 15, 2021
Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No