

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

CRM-M-28164 of 2021

Date of Decision: 27.07.2021

Varun Dev Garg

Petitioner

Versus

State of Haryana

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ashit Malik, Advocate for the petitioner.
Ms. Dimple Jain, AAG, Haryana.

AVNEESH JHINGAN, J (Oral):

The matter is taken up for hearing through video conference due to COVID-19 situation.

This petition under Section 438 Cr.P.C. is filed seeking anticipatory bail in FIR No. 487 dated 25.6.2021, under Sections 420, 120-B after addition of Sections 406 and 409 IPC and Sections 7 and 13(1)(d) of the Prevention of Corruption Act, 1988 registered at Police Station Camp, Palwal.

The petitioner was working as Computer Operator on contractual basis in the office of Land Acquisition Collector. Later on, it came to light that he was simultaneously working on two projects on contract basis i.e. Dedicated Freight Corridor Corporation of India since August, 2012 and also in Haryana Orbital Railway Corridor since September, 2020. He had drawn salaries from both the projects. Due to his employment, he was well aware about the land to be acquired for projects. As per the policy for land acquisition of the project, the owners had to get a government job and compensation for the land acquired. On receipt of the complaint, detailed enquiry was conducted and thereafter FIR was registered. Subsequently, seeing the magnitude and importance of the issue, SIT was constituted. The FIR was initially registered only under Sections

420 and 120-B IPC.

The petitioner earlier approached this court seeking anticipatory bail by filing CRM-M-25714 of 2021. The case set up was that the land acquired was owned by the grand mother of the petitioner and she transferred a portion of the land to her blood relation, hence no case under Section 420 IPC is made out. The court considering the fact that it was transfer from grand mother to grand son, granted pre-arrest bail subject to joining investigation within 10 days.

The petitioner failed to join the investigation during the stipulated period. During investigation by SIT, it was revealed that facts were different. The grand mother of the petitioner purchased the land on 8.10.2020 and after 11 days of its purchase it was transferred to the grand children including the petitioner on 19.10.2020. The revelation was that the petitioner was working on two projects on contract basis simultaneously and drawing salaries from both the projects. Sections 406, 409 IPC and Sections 7 and 13(1)(d) of the Prevention of Corruption Act, 1988 were added, hence this second petition seeking anticipatory bail.

Learned counsel for the petitioner submits that this court had earlier considered the facts and granted pre-arrest bail. The subsequent sections have been added on the ground that the petitioner has drawn two salaries from two projects simultaneously. The submission is that anticipatory bail be granted.

Learned counsel for the State relying upon the pleadings of the reply vehemently opposes the prayer for grant of pre-arrest bail. She relies upon the pleadings in paragraph No. 3 of the preliminary objections of the reply. For ready reference, the same is quoted below:

“3. That the investigation of the case was handed over to SIT Palwal and during investigation relevant record from the office of SDO Palwal cum Competent Authority Palwal taken into police custody, and disputed sale deed obtained from sub registrar Palwal. After analyse of records it was found that the present petitioner was working in DFCCIL project through SDO (C) Palwal cum Competent Authority Palwal since August 2012 and in HORP (Haryana Orbital Railway

Corridor) since September 2020. It reveals that petitioner obtains monthly salary from both projects simultaneously copy of notices bearing no. 217 steno dated 12-05-2021 regarding deposit salary taken from HORC project and notice bearing no. 228-29/steno dated 19-05-2021 which was received by petitioner on 24.05.2021 regarding termination of services are annexed as Annexure R-1. That record of account of SDO Civil cum Competent Authority Palwal bearing no. 427401000366 taken from ICICI Bank Palwal which reveals the salary transaction to the account of petitioner are annexed as Annexure R-2. Petitioner was working in SDO (C) Competent Authority Palwal and have well knowledge about proposed acquired land for both projects. That the present petitioner has purchased 56 square yard land from proposed acquired land of Haryana Orbital Railway Corridor after his appointment in above HORP project on 14.09.2020 through his mother Usha devi and his grand mother Ramvati on 08.10.2020 vide sale deed no. 5915 dated 08.10.2020. Copy of sale deed no. 5915 dated 08-10-2020 are annexed as annexure R-3. To take undue advantage of his post and Railway Rehabilitation and resettlement award (RR Award) petitioner got transferred 21 square yard land out from the total 28 square yard of his grand mother Ramwati to his own name, his brother Rahul and his sister Priyanka 7 square yard each, only after 11 days of purchased, vide sale deed no. 7142 dated 19.10.2020 sub registrar Palwal. Copy of sale deed bearing no. 7142 date 19-10-2020 are annexed as annexure R-4. On 10-07-2021 petitioner's mother Usha Devi age 60 years joined in investigation, while question answering who stated that I have got knowledge about land purchase vide sale deed No. 5915 dated 08-10-2020. Accused Suresh Kumar was arrested on 21-07-2021. He got recovered Rs. 1,94,000 (Double salary amount) and Original sale deed bearing no 4135 dated 18-07-2018 sub registrar Palwal. Accused Suresh Kumar (Kanungo)

disclosed that when sale deed no 4135 dated 18-07-2018 was registered in sub registrar Palwal, The present petitioner stand on place on co accused Suresh. Later on co accused Suresh Kumar sold out 6 square yard land out of total land 30 square yard to present petitioner and other 32 persons in which wife of co accused Vikash Patwari is also share holder vide sale deed no. 13174 dated 28-03-2019 sub registrar Palwal. Copy of Sale Deed bearing no. 13174 dated 28-03-2019 is annexed as annexure R-5. Recovery of double salary amount approximately Rs 1,50,000 and sale deed no 7142 dated 11.10.2020 and sale deed no. 5915 dated 08-10-2020 yet to be effected from petitioner. After issue notice under section 41/91/160 Cr. Pc on 08.07.2021 to petitioner advocate, petitioner did not join investigation. Section 7/13 (1) D of prevention of corruption act was added on 04-07-2021 and petitioner file his earlier petition CRM-M 25714 of 2021 on 05-07-2021, yet the section of prevention of corruption act are not mentioned by the petitioner in his petition.”

In the case in hand, the conduct of the petitioner needs to be commented upon, however this court refrains from doing so as it would affect the investigation and the trial. Twisted facts are being disclosed for seeking anticipatory bail. The material facts were withheld. The issue involved is complex than what it appears with first sight. To add to the spiral, is the approach adopted by the petitioner. From the pleadings in the reply filed, *prima facie* it appears that more than one eligible candidate was intended to be brought up for availing the benefit of government job. It was not a mere transfer from grand mother to her grand children. The transaction was to hoodwink the entire system. Grand mother purchased the land and thereafter transferred the same within 11 days. It would be appropriate to note that thirty one persons got the share in the land by a single transfer.

There is another aspect of the matter, the petitioner though on contract was simultaneously working in two projects deriving information

from both the sources and also salaries. It is not case of petitioner that he disclosed while getting the second job that he was already employed.

Considering the facts and circumstances in totality, no case is made out for grant of anticipatory bail. It is a case in which deeper probe is required to unearth the vicious and well planned web knitted by accused.

The petition is dismissed.

It is clarified that nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

[AVNEESH JHINGAN]
JUDGE

27th July, 2021
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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |