

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

CRM-M-30092-2021 (O&M)
Date of Decision:- 26.8.2021

Gurjeet Singh Johar and another ... Petitioners

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Abhimanyu Bhandari, Advocate for petitioner No.1.

Mr. Sangram S.Saron, Advocate for the petitioner No. 2.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by SI Pritpal Singh.

Mr. G.S.Dhaliwal, Advocate for the complainant.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.

1. The petitioners seek grant of anticipatory bail in a case registered against them vide FIR No.150 dated 14.8.2018 under Sections 406/420/120-B IPC at Police Station Phase 1, Mohali District SAS Nagar.
2. The FIR (Annexure P-1) was lodged at the instance of Ranjit Singh wherein as many as six accused were named. The allegations, in nutshell, are that Punjab Industrial Development Board had invited proposals (RFP) for construction of Bus Terminal-cum-Commercial Complex at Mohali. In response thereto M/s C&C Constructions Limited, Gurgaon had submitted its proposal, which was accepted and it was awarded contract for developing and constructing the Mohali Bus Terminal-cum-Commercial Complex. It is

alleged that M/s C&C Constructions Limited, however, constituted a Special Purpose Company (SPC) by the name M/s C&C Towers Limited for undertaking the constructions. The complainant Ranjit Singh has alleged that he as well as Col. PJs Palia, Prof. Rajinder Singh, Gurdev Singh, Harpreet Singh and Gurmeet Singh apart from a large number of other investors had purchased shops/office spaces in the proposed Air conditioned ISBT, developed by C&C Towers Ltd. and for which they had deposited amounts equivalent to 35% to 90% of the price and were also issued allotment letters wherein they were made to believe that the entire project will be completed by the year 2012 and possession will be handed over to them. During investigation, it has surfaced that each of the investors had deposited amounts ranging between 6 lacs to 68 lacs approximately. It is further alleged that the date of completion used to be extended from time to time without any satisfactory reason. The complainants, realising that they had been defrauded, demanded their money back alongwith 18% interest and also issued notices to them in the year 2017 but to no avail.

3. The learned counsel for the petitioners have submitted that even if the allegations, as levelled in the FIR, are taken to be correct, still it is at best a case of civil liability which has arisen mainly on account of certain difficulties faced by the construction company in completing the construction within the agreed time frame and that they had no intention whatsoever in defrauding the complainant or others. It has been submitted that the petitioners are aged 71 and 63 years respectively and are seasoned and experienced professionals in infrastructure industry having an unblemished career of 40 years in infrastructure management and

supervision of construction projects and that the contract for construction of the ambitious project i.e. Air Conditioned ISBT at Mohali had been awarded to them in view of their reputation in the infrastructure industry and that it cannot be said that they had any malifide intention to cheat or defraud the complainants. It has been submitted that it was solely on account of some unavoidable circumstances due to which the project could not be accomplished. The learned counsel has further submitted that the petitioners have never been kept behind bars till date and that once when they were formally arrested on 14.7.2020, they were released on their personal bonds on the same day itself and ever since they have remained associated with the investigation of the case and have cooperated in every manner and as of now the investigation is complete and a challan has been presented and that in these circumstances, there is no occasion for custodial interrogation of the petitioners or to justify any kind of detention. It has further been submitted that the conduct of the petitioners in having cooperated with the police during the last 3 years and not having fled from country would rule out any kind of apprehension that the petitioners will flee from justice or that if granted bail, they will abscond. The learned counsel representing petitioner No. 1 has also submitted that the petitioner Gurjeet Singh Johar is suffering from various chronic ailments for which regular medical treatment and follow up is required, and that the same would furnish an additional ground for his release on anticipatory bail.

4. On the other hand, the learned State counsel has submitted that while the FIR has been lodged by Ranjit Singh alongwith 5 other persons but infact it is a case where about 400 innocent investors had been left high and dry and

had lost lacs of rupees. It has further been submitted that in fact an amount of approximately ₹ 490 crores had been collected by M/s C&C Towers Limited, which was a subsidiary of M/s C&C Constructions to whom the contract had been awarded. It has been submitted that keeping in view the enormity of the fraud committed, there is every likelihood that the petitioners upon getting a chance would flee from justice and may abscond. The learned State counsel has further submitted that the Court of Sessions has assigned valid reasons while declining the anticipatory bail to the petitioners and in these circumstances, the petitioners do not deserve the concession of bail.

5. I have considered rival submissions addressed before this Court.
6. It is certainly a case wherein the allegations against the petitioners and other accused pertain to depriving the complainants and other investors of a colossal amount of about ₹ 500 crores, which had been collected by the petitioners for the purpose of allotting them shops/office spaces in the much hyped AC ISBT proposed to be constructed at Mohali. The question as to whether the accused had an intention of defrauding the investors from the very beginning or as to whether such intention developed later on or as to whether they are absolutely not at fault is a matter which can only be decided at the time of trial. It is not in dispute that the petitioners had associated with investigation and had never been sent behind bars or subjected to custodial interrogation during the last 3 years i.e. ever since the lodging of the FIR except for their formal arrest on 14.7.2020 when they were released on their personal bonds. The challan already stands presented. The petitioner no. 1-Gurjeet Singh Johar is stated to be aged 71 years and

petitioner no. 2 - Charanbir Singh Sethi is stated to be aged 63 years. In these circumstances when the petitioners had been cooperating with the investigation and challan stands presented, there is hardly any room for sending them behind bars at this stage.

7. A Division Bench of Hon'ble Delhi Court in a case reported as (2018) 254 DLT 641 (DB) – Court on its own motion Vs. State held that it is not essential in every case involving cognizable and non-bailable offence that an accused be taken into custody when chargesheet/final report is filed. Hon'ble Supreme Court in its recent judgment delivered on 16.8.2021 in Criminal Appeal No. 838 of 2021 – Siddharth Vs. State of Uttar Pradesh and another wherein a matter pertaining to arrest of an accused against whom chargesheet has been presented and who had otherwise not been arrested, was being examined, held as follows, while referring to the aforesaid Division Bench judgment of Hon'ble Delhi High Court and as well as to other judgments :

“We are in agreement with the aforesaid view of the High Courts and would like to give our imprimatur to the said judicial view. It has rightly been observed on consideration of Section 170 of the Cr.P.C. that it does not impose an obligation on the Officer-in-charge to arrest each and every accused at the time of filing of the chargesheet. We have, in fact, come across cases where the accused has cooperated with the investigation throughout and yet on the chargesheet being filed non-bailable warrants have been issued for his production premised on the requirement that there is an obligation to arrest the accused and produce him before the

court. We are of the view that if the Investigating Officer does not believe that the accused will abscond or disobey summons he/she is not required to be produced in custody. The word “custody” appearing in Section 170 of the Cr.P.C. does not contemplate either police or judicial custody but it merely connotes the presentation of the accused by the Investigating Officer before the court while filing the chargesheet.”

8. Although, the learned State counsel has submitted that there is apprehension that the accused who were accused of committing fraud of ₹ 500 crores are likely to abscond but this Court is unable to accept the said contention, especially keeping in view the age of the accused and also their conduct during the last 3 years during which they have cooperated with the investigation and in fact even the police had not even chosen to arrest them. Consequently, in the light of ratio of recent judgment rendered by Hon'ble Supreme Court in Siddharth's case (Supra) and in light of the factual position in the instant case wherein chargesheet has been presented and the accused have not been sent behind bars during the last 3 years when they had been cooperating with the investigation, the petition merits acceptance and is hereby accepted.
9. The petitioners are directed to appear before the trial Court within one week from today. Upon their appearance, the trial Court shall release the petitioners on bail subject to their furnishing adequate bail bonds and surety bonds to its satisfaction. The trial Court would be at liberty to impose any such condition, as deemed appropriate at the time of accepting bail bonds so as to ensure that the accused appear regularly before the trial Court.

10.The petition stands accepted accordingly.

26.8.2021

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No