

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

205

CRM-M-33382-2021

Decided on : 26.10.2021

Vinod

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

(Through Video Conferencing)

PRESENT: Mr. Gaurav Mohunta, Advocate
for the petitioner.

Mr. PraveenBhadu, AAG, Haryana.

VIKAS BAHL, J. (Oral)

This is a first petition under Section 438 of the Code of Criminal Procedure, 1973, for grant of anticipatory bail to the petitioner in case FIR No.491 dated 23.07.2021 (Annexure P-4), registered under Sections 420, 465, 467, 468, 471, 120-B, 409 and 511 of the Indian Penal Code at Police Station Gurgaon Sadar, District Gurgaon.

On 17.08.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

“This is a petition filed under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No. 491 dated 23.7.2021 registered under Sections 420, 465, 467, 468, 471, 120 B, 409, 511 IPC at Police Station Gurgaon Sadar, District Gurgaon.

FIR was lodged on the complaint dated 23.7.2021 of one Thakur Lal Sharma, Chief Engineer, Municipal Corporation, Gurgaon. It was alleged by complainant that some officials namely Vinod Kumar, Junior Engineer (petitioner), Vicky Kumar, Assistant Engineer, Pankaj Saini, Executive Engineer, Gopal Kalawat,

Executive Engineer in connivance with Dilawar Singh, Raj Kumar, Pawan Balhara, contractors of Municipal Corporation, Gurgaon had recommended the release of payment of bills in respect of different development works which were never executed. The bills had been cleared despite of the fact that no such work had been executed at the spot. The facts of fabrication of record and embezzlement of public funds had come to notice after inquiry was conducted by Joint Commissioner, Municipal Corporation, Gurgaon.

Learned counsel for petitioner admits that petitioner was a Junior Engineer in Municipal Corporation, Gurgaon. Under his charge, 3 development works were executed. Petitioner had recommended clearing of bills of those 3 development works. He states that a detailed departmental inquiry into alleged deficiencies in respect of 11 development works in Municipal Corporation, Gurgaon had been conducted. In respect of 3 development works of which petitioner was incharge, the findings are that there are shortcomings in the execution of development work and that the development works were never fully completed.

Learned counsel for petitioner states that petitioner was transferred from Municipal Corporation, Gurgaon to Department of Public Health, Gurgaon on 23.10.2020. On receipt of a complaint regarding deficiency in development work, the physical inspection of same was conducted on 23.11.2020 i.e. almost after a period of 1 year and 2 months of completion of development work. He argues that in the natural course, there would be some wear and tear which has not been taken into account while conducting departmental inquiry. He further argues that in respect of 3 development work of which petitioner was incharge, none of bills were cleared. Hence, there is no loss caused to State exchequer. He states that departmental inquiry under the Haryana Civil Services (Punishment and Appeal) Rules, 2016 initiated against accused Gopal Kalawat, Executive Engineer and Vicky Kumar, Assistant Engineer had been concluded. It has come to light that most of bills were signed by accused Gopal Kalawat. However, said accused had been let off with a punishment of warning only 'to be careful in future'.

Learned counsel for petitioner states that petitioner is a serving Government employee. He has an impeccable service record

and has faced no charge other than this charge of negligence. There are no allegations that petitioner had received any monetary benefit. He undertakes to cooperate with investigating agency.

Notice of motion for 26.10.2021.

Meanwhile, in the event of arrest of petitioner, he shall be released on interim anticipatory bail to the satisfaction of Arresting Officer/Investigating Officer. He will join investigation as and when called for and cooperate in same. He will abide by conditions of Section 438 (2) Cr.P.C.”

Learned counsel for the petitioner has submitted that in pursuance of the abovesaid order, the petitioner has joined the investigation. Learned counsel for the petitioner has also stated that even the allegations with respect to some alleged documents having been forged, the same is allegedly subsequent to 23.10.2020 i.e. when the petitioner was transferred from Municipal Corporation, Gurgaon to Department of Public Health, Gurgaon and thus, the petitioner would have no role with respect to the said alleged forged documents also.

Learned State counsel, on instructions from Inspector Rakesh Kumar, has stated that the petitioner has joined the investigation on 01.09.2021 and is no more required for further investigation.

This Court has heard the learned counsel for the parties.

Keeping in view the abovesaid facts and circumstances, moreso the fact that the petitioner has joined the investigation and is no more required for further investigation and also the fact that the petitioner would possibly have no role to play in any document being forged, the present petition for anticipatory bail is allowed and the interim order dated 17.08.2021 is made absolute.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

26.10.2021

Mehak

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No