

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

205(A)

CRM-M-43210-2021

Decided on : 26.10.2021

Pankaj Saini

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

(Through Video Conferencing)

PRESENT: Mr. Kuldeep Sheoran, 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 13.10.2021, 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 registered on the statement of one Thakur Lal Sharma, Chief Engineer, Municipal Corporation, Gurugram. In the complaint, he stated that some officials of Municipal Corporation, Gurugram namely, Vinod Kumar, the then Juior Engineer, MCG, Vicky Kumar, Assistant Engineer, MCG, Pankaj Saini (petitioner), the then Executive Engineer, MCG, Gopal Kalawat, Executive

Engineer, MCG in connivance with Dilawar Singh, Raj Kumar and Pawan Balhara, Contractors of Municipal Corporation, Gurugram had made payments for development works which have never been done.

Learned counsel for petitioner has argued that the matter was inquired into. The only allegation against petitioner is that he had cleared Rs. 46.59 lacs for development works executed in Ward No. 3 without bills being verified and signed by Junior Engineer. Learned counsel for petitioner further states that the Junior Engineer who was looking after Ward No. 3 was working on contractual basis. He has referred to order dated 14.9.2019 (Annexure P-5) of Commissioner, Municipal Corporation, Gurugram, as per which an entry in the measurement book to be either made by Junior Engineer and in his absence by the concerned Assistant Engineer. The Junior Engineer working on outsourcing basis are not authorised to make any entry in the measurement book. He further states that even as per the inquiry report, it is not the case that no work has been executed. It is clearly mentioned that some work has been done. However, as the work was executed much earlier, it is difficult to find which work was done. He further argued that no bill has been cleared and there is no loss caused to the State exchequer. He further argued that Vicky Kumar, Assistant Engineer who is also accused in FIR was proceeded against departmentally, but only a warning was issued to him to be careful in future. Further, Gopal Kalawat, Executive Engineer who is alleged to have cleared 10 bills in respect of 11 development works was proceeded against departmentally, but charges were dropped against him and he was ordered to be careful in future.

Notice of motion.

Mr. Surender Singh, AAG Haryana accepts notice on behalf of State.

To come up alongwith CRM-M-33382-2021 on 26.10.2021.

In the meanwhile, in the event of arrest of petitioner, he shall be released on interim anticipatory bail to the satisfaction of Arresting/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 said order, the petitioner has joined investigation and the case of the petitioner does not pertain to Ward No. 23 or Ward No. 24 in which there are allegations of certain documents having been forged.

Learned State counsel, on instructions from Inspector Rakesh Kumar, has stated that the petitioner has joined the investigation on 15.10.2021 and is no more required for further investigation.

Keeping in view the abovesaid facts and circumstances, more so, the fact that the petitioner has joined the investigation and is no more required for further investigation and also the fact that the petitioner was not dealing with Ward No. 23 or 24 in which there are certain allegations of documents being forged and was dealing with only Ward No. 25, the present petition for anticipatory bail is allowed and interim order dated 13.10.2021 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?
Whether reportable?

Yes/No
Yes/No