

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

CRM-M-44653-2021 (O&M)

Date of Decision:- 21.12.2021

Anil Hasija

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Puneet Bali, Senior Advocate with
Mr. Vishavjeet Singh, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana
assisted by SI Vinod.

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of regular bail in a case registered against him vide FIR No.230 dated 17.9.2021 under Sections 406, 420, 467, 468, 471/120-B IPC at Police Station Sector 53 Gurugram, District Gurugram.
2. The FIR was registered at the instance of Mahender Singh, attorney of Baljeet Singh, who is an allottee of a plot measuring 60 Sq.Yds. in “Economic Weaker Section” (EWS) category, situated at Ardee City, Gurugram. The complaint has been lodged against Ardee Infrastructure Private Limited and other licence holding companies for Ardee City, Gurugram; Shibani Kapur Varma, Director Ardee Infrastructure Private Limited; Anil Hasija (petitioner) Vice-President, Ardee Infrastructure Private Limited; and other accused associated with the scam in question. The complainant has alleged that the allottee Baljeet Singh had been allotted a plot measuring 60 square yards in EWS category by Ardee Company in

February, 2000. Shibani Kapur Varma being Director was involved in day-to-day business and decision making of the company. Anil Hasija, being Vice President is stated to be fully involved in the deals and business development of the company. It is alleged that the accused had obtained license for development of a project namely Ardee City and as per the mandatory condition of license, they were required to reserve 20 per cent of the area for allotment of plots to people belonging to EWS category. The allottee Baljeet Singh had applied for the same and had deposited an amount of ₹1200/- with M/s Ardee Infrastructure. Thereafter, the accused are alleged to have demanded an additional amount of Rs.25,000/- in cash. However, despite having received the said payment, the accused has not been given any plot till date i.e. more than two decades, although licenses had been obtained between the period from 1995 to 2002. It is alleged that the accused, very cleverly earmarked such land for EWS category plots which was having some kind of defect or was disputed and that while some part of the land earmarked had already been acquired, some part of land was having an underground gas-pipe on account of which construction could not have been raised. It is alleged that the accused had collected huge money from various allottees under EWS category and had usurped the said amount while they were spending hundreds of crores for constructing commercial building namely Ardee Mall and were earning huge profits by allotting plots and flats in the said township while ignoring the economic weaker sections.

3. The learned counsel for the petitioner has submitted that admittedly the licenses for development of the land in question had been issued during the year 1995 to 2002 under provisions of Haryana Development and

Regulation of Urban Areas Act of 1975, when the petitioner was not working as Vice-President and it was only in the year 2009 that he was appointed as Vice-President of the Company. It has further been submitted that at best, it is the Directors of the company who could be held liable for any default in the matter of allotment of plots in the category of EWS and that Vice-President cannot be held responsible in any manner for the same. The learned counsel has submitted that infact land for the purpose of allotment of 104 plots in EWS category is still available and the company is awaiting government's nod for final allotment of the same, which is still awaited.

4. The learned counsel has further submitted that the alleged conduct of the company in not having allotted plots in EWS category would at best amount to violation of a condition of license for which Directorate of Town and Country Planning (DTPC) could take penal action and infact DTPC has already cancelled the licenses issued in favour of the company in question, though an appeal is still pending. It has further been submitted that although the respondent-State has come up with a plea that at the time of submission of layout plans in the year 2015 for renewal, some incorrect information regarding khasra numbers had allegedly been furnished and that the said layout plan had been submitted under signatures of the petitioner but the DTPC has also lodged a separate FIR on account of the said incorrect furnishing of information and that in these circumstances, raising of said issue in the present FIR would virtually amount to double *jeopardy*. The learned counsel has, thus, submitted that the petitioner who has been behind

bars since the last about 3 months deserves to be released on bail, particularly when the matter is mainly based on documentary evidence.

5. On the other hand, the learned State counsel has submitted that even if it is taken that the petitioner had joined the company as Vice-President in the year 2009, still he cannot escape from his liability on account of the fact that in the year 2015, he, while furnishing information pertaining to the land earmarked for plots in EWS category furnished khasra numbers in respect of the land which had already been acquired. The learned State counsel, in this regard, has drawn the attention of this Court to Annexure R-3 annexed with the reply wherein the jamabandi does show that khasra No. 964, 965 and 966 are shown to be in the ownership of Haryana Shahari Vikash Pradhikaran. The learned State counsel has further submitted that in any case the accused having received amount in the year 2000 and not having allotted the plot even for more than 2 decades cannot escape from their liability as regards offence of misappropriation, howsoever small the amount may be. The learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 3 months and that he is not involved in any other case.
6. I have considered rival submissions addressed before this Court.
7. It is not in dispute that the petitioner is not a Director of the Company and is working as a Vice-President and had been appointed as such in the year 2009 whereas the licenses in question had been issued between the years 1995 and 2002. It is also not in dispute that at the time of issuance of license for development of any land by a private builder, he is required to earmark 20 per cent of the area for the purpose of allotment of plots to persons

belonging to EWS category. It is the said condition which is not stated to have been complied with in the present case. The DTPC on account of non-compliance of the said condition has already cancelled the license granted in favour of the company, as would be evident from the cancellation order dated 2.9.2021 (Annexure P-9). As regards the submission of the State counsel regarding furnishing of incorrect information to DTPC in the year 2015 by the petitioner wherein he is stated to have affixed his signatures on the layout plan, the DTPC has already registered a separate FIR against the petitioner i.e. FIR No. 234 dated 20.9.2021, Police Station Sector 53, Gurugram (Annexure P-11). It is no doubt correct that the company despite having received amount from various allottees in the year 2000 and has not allotted the plot till date but keeping in view the fact that the petitioner is not involved in any other case and has already been behind bars since the last about 3 months and that his role in the alleged offences would be debatable as he had joined in the year 2009, his further detention would not be justified.

8. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

21.12.2021

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No