

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

105

**CRM-M-563-2022
Decided on : 10.01.2022**

Dilawar Singh

. . . 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. Manish Dadwal, AAG, Haryana

VIKAS BAHL, J. (Oral)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.491 dated 23.07.2021 registered under Sections 420, 465, 467, 468, 471, 120-B, 409 and 511 of the Indian Penal Code, 1860 at Police Station Gurgaon Sadar, District Gurgaon.

The petitioner is stated to be the contractor with respect to ward No. 10, 11, 35, 12, 29 and 27. The total work with respect to the said wards awarded to the petitioner was to the tune of Rs.1,69,47,000/. As per the enquiry report (Annexure P-1) dated 23.11.2021 which was made the basis of the registration of the FIR there were several defects in carrying out the work in the various wards. With respect to ward No. 29, it was found that no work has been carried out on the spot. It is further alleged that despite of the same, the petitioner Raj Kumar and other contractors had forged satisfaction certificate to

show that some work had been done by them satisfactorily and thus, sought release of the money. All the 11 counsellors had given their statement that they had not signed the said certificates which were produced by the petitioner and the other contractors. Learned counsel for the petitioner has submitted that in the present case, the petitioner had executed a general power of attorney dated 05.03.2017 in favour of Pawan S/o Rajbir Singh, who is the nephew of the petitioner and the said Pawan had taken upon himself the responsibility of all the works to be executed and the present petitioner had got himself absolved of all kinds of consequences with respect to any dispute. Further reliance has been placed upon a disclosure statement of the said Pawan wherein, he had stated that the work in question was done by him and it was him who had given the satisfaction letters allegedly issued by the counselor from the files of the Municipal Office and in fact, one Manjeet had prepared the said fake satisfaction letter and given it to him, which was presented in Municipal Corporation to get the bills passed in Municipal Corporation. It is further submitted that the said Manjeet is the brother of said Pawan. Learned counsel for the petitioner has further argued that it was not him who had prepared the fake/forged satisfaction letters or submitted the same.

Learned State counsel, on the other hand, has opposed the present petition for anticipatory bail and on instructions of SI Balram, has submitted that the factum with respect to sub letting of the work

was never informed by the petitioner to the authorities and at any rate, as would be apparent from the detailed enquiry report, the work which was entrusted to the petitioner was not carried out properly and in certain wards, no work was carried out at all and an attempt was made to get the entire money released in spite of the fact, that the same was not due to the petitioner. It is submitted that the petitioner has even recorded the statement in the enquiry proceedings and the same is apparent from page-25 of the paperbook but however, had not taken the present stand taken with respect to the GPA in the same. It is further submitted that since the work was allotted to the petitioner, it was the duty of the petitioner to carry out the same and it is only the petitioner who had privity of contract with the Municipal Corporation, Gurugram and since the letters had been fabricated with respect to the award of the petitioner, it is thus apparent that it is the petitioner who has fabricated the same and in any case, the custodial interrogation of the petitioner is required for the purpose of investigation and for finding out as to the *modus operandi* adopted by the petitioner.

This Court has heard the learned counsel for the parties and has perused the paperbook.

A perusal of the enquiry report, which is the basis of the filing of the FIR, would show that the petitioner was granted work amounting to Rs.1,69,47,000/- for carrying out work in ward No. 10, 11, 35, 12, 29 and 27. A further perusal of the enquiry report would

show that as far as ward No. 29 is concerned, no work was found to be done on the spot. The relevant portion of the enquiry report is reproduced hereinbelow:

“xxx—xxx--xxx

VIII. Name of work: Estimate for Special repair of roads and drains and resolving complaints on Social Media as well as Harpath complaint in Laxman Vihar Ward No. 10 under MCG.

Start Date:- 06.09.2019

Completion Date:- 05.11.2019;

Physical inspection:

- 1. This work was done near Bus stop, Surya Vihar.*
- 2. This work has been done in parts in front of shops as well as at footpath.*
- 3. At the spot, the footpath was broken in some places at that time.*

IX. Name of work: Estimate for Special repair of roads and drains and resolving complaints on Social Media as well as Harpath complaint in Laxman Vihar Ward No. 12 under MCG.

Start Date:- 05.09.2019

Completion Date:- 04.10.2019;

Physical inspection:

- 1. It was told that the patch work in this Ward has been done at 20-25 places.*
- 2. One of the place where the work was told to be done, was broken even then, on which it is told that the road breaks due to leakage of water.*
- 3. During inspection, it seems that this work has been done in only some places and most of the work*

is not done.

X. Name of work: Special repair and beautification of roads under city beautification at Sec. 47, 48 and Section 46 in Ward 29, Zone-IV under MCG:

Start Date:- 09.01.2020

Completion Date:- 08.02.2020

Physical inspection:

1. No work has been found to be done at the spot.”

The conclusion in respect to other five big works are as follows:-

<i>Sr. No.</i>	<i>DG No.</i>	<i>Subject</i>	<i>Description</i>
<i>1.</i>	<i>00345</i>	<i>Repair an construction of roads in Ward No. 35 Zone-III, under MCG limit MCG.</i>	<i>Only some works appears to be done and rest of the work has not been done.</i>
<i>xxx--xxx--xxx</i>			
<i>4.</i>	<i>00610</i>	<i>Special repair and beautification of roads under city beautification at Sec 47, 48 and Sector 46 in Ward- 29 Zone-IV under MCG.</i>	<i>This work has not been found to be done at the spot.</i>

xxx—xxx--xxx

- 5. All the 11 Councillors got recorded their respective statments, in which, they stated that the satisfaction certificate attached by the contractors with the work file are fake and forged, out of 4 councillors stated that some work has been done but the attached satisfaction certificates are forged and fake.*
- 6. In this manner, all three contractors namely Sh. Dilawar Singh, Sh. Pawan Balhara and Sh. Raj Kumar are guilty because they in*

connivance with officers/employees got prepared the false against their half/incomplete works or by attaching fake satisfaction certificates allegedly issued by the Councillors concerned and then sent the same for payment.”

A perusal of the above would show that with respect to the work regarding Ward No. 29, no work was done and with respect to ward No. 35, very less work had been done. It is also relevant to mention that regarding the other wards also, the work was not satisfactory and was incomplete. A further perusal of the said enquiry report would show that the satisfaction certificates attached by the petitioner and the other contractors were found to be forged and fabricated and thus, an attempt was made to get the money extracted which was not even due to the petitioner. The argument of the learned counsel for the petitioner to the effect that petitioner had executed the GPA on 05.03.2017 in favour of his nephew Pawan and said Pawan had stated that the fake satisfaction certificate were prepared by him and Manjeet, who was the brother of Pawan, does not in any way further the case of the petitioner. In fact, the same clearly proves that the fact that the satisfaction letters with respect to the wards which were allotted to the petitioner were fake. The said plea qua the GPA had not been taken by the petitioner in the enquiry report before Enquiry Officer although, he had appeared and his statement had been recorded and the said enquiry which is apparent from Page-25 of the paperbook. The argument of the learned State counsel is that no information of the said

GPA was ever given by the complainant to the department and the said fact has not been rebutted during the course of arguments.

Learned counsel for the petitioner has not been able to show that the petitioner was entitled to sub let the contract. At any rate, it is the petitioner who had privity of contract with the Municipal Corporation, Gurugram and in case of any fault/illegality, the petitioner cannot wash off his hands regarding the same. Since forged documents had been used with respect to the ward of the petitioner, the custodial interrogation of the petitioner would be necessary to ascertain the modus operandi which has been adopted and to nab the persons who were actually involved in the entire act.

Keeping in view the abovesaid facts and circumstances, this Court is of the view that the present petitioner does not deserves the concession of anticipatory bail and accordingly, the present petition is dismissed.

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

(VIKAS BAHL)
JUDGE

January 10th, 2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No