

103 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-1400-2022

Decided on: 3rd March, 2022

Harkirat Singh

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. P.S. Khurana, Advocate for the petitioner.
Mr. Amit Mehta, Senior Deputy Advocate General, Punjab.

AVNEESH JHINGAN, J (Oral):

1. Due to COVID-19 situation, the Court is convened through video conference.
2. This petition under Section 438 Cr.P.C. is filed seeking anticipatory bail in FIR No.18, dated 15th December, 2021, under Sections 7, 13 (1)(a)(ii) of the Prevention of Corruption Act, 1988 as amended by the PC (Amendment) Act 2018 and Under Sections 420, 467, 468, 471 and 120-B IPC registered at Police Station Vigilance Bureau Bathinda.
3. The initiation point of the present FIR was a complaint supported by an affidavit received in the office of the Senior Superintendent of Police from Lakhvinder Singh, Beant Singh and Gurcharan Singh against Harkirat Singh(petitioner) posted as Naib Tehsildar, Gobindpura. As per the allegations, the petitioner had not refunded rupees twelve lakh (four lakh taken from the each complainant) received on pretext of getting recruitment for their children as Constable in Punjab Police by showing exchange of land *lal dora* with land to be acquired at the village for thermal power plant

in year 2012. As per the case set up, the petitioner in the revenue record showed exchange of land to be acquired with the land in the *lal dora*. He forwarded the cases of the wards of the complainants and others who were having one marla land, inspite of the fact that as per the policy entitlement for job was only where the acquisition was of four kanals or more.

4. Learned counsel for the petitioner submits that the present FIR has been registered after a delay. The matter was earlier inquired by Senior Superintendent of Police, Vigilance Bureau, Bathinda and as per the inquiry report, no truth was found in the allegations. He submits that the exchange of land till date holds good, no one has challenged the order of exchange of land. He further submits that basically four objections were raised against the earlier inquiry report which were duly met, yet the FIR has been registered. The contention is that there are two fold allegations in the FIR, firstly, that petitioner received rupees twelve lakh whereas said allegation was found false in earlier inquiry. Secondly, that the compensation was received by the fictitious persons. The contention is that no complainant has come forward raising a grievance that he has not received the compensation. It is argued that the petitioner has retired since January, 2018 and the case is based upon documentary evidence.

5. Learned State counsel opposes the prayer for grant of anticipatory bail and relies upon the pleadings of two status reports filed. He argues that petitioner being a Naib Tehsildar misused his official position. He for illegal gratification changed the revenue records and recorded the exchange of land to extend benefit to the persons who were not eligible as per acquisition policy. It is further argued that the delay in

registering FIR occurred as petitioner while holding the office was able to delay the things being custodian of the records and could exercise influence. It is further argued that earlier inquiry could not be held properly as the complainants got recorded their statements that the complaint against the accused was made due to some mis-conception and they don't want to pursue it. The contention is that the considering the far reaching effects and the implications of the allegations, material was collected and put before the authority concerned only thereafter FIR was registered. Learned State counsel submits that Patwari and Kanungo are in custody but the *modus operandi* could not be unearthed as custody of the petitioner is required.

6. It is clarified that observations made herein are only with reference to the decision of anticipatory bail petition and shall not be construed as an observations of opinion on the merits of the case.

7. A well planned exercise was taken by the officials of the revenue department in connivance with the private persons to extend benefit to ineligible persons, of the Government jobs in pursuance of the acquisition policy. The fact that during the inquiry the complainants refused to pursue the complaint can be an indicator of the petitioner exercising his influence on the complainants. The case is not only based upon the documentary evidence as contended by learned counsel for the petitioner. It is only three complainants who came forward and resultantly the scam saw the light of the day. Whereas acting as a Naib Tehsildar petitioner dealt with numerous cases of similar nature, if clothed with pre-arrest bail it would be difficult to have the required deeper probe which may be needed keeping in view the nature of accusation. The delay in lodging the FIR

would be subject matter of the investigation and the trial. Suffice to say that inquiry held itself is under cloud at this stage.

8. Considering the seriousness of the allegations and the role attributed, no ground is made out for grant of anticipatory bail.
9. The petition is dismissed.

[AVNEESH JHINGAN]
JUDGE

3rd March, 2022
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes /No
2. Whether reportable

:

Yes /No