

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SR. No.203

CRM-M-6991-2021

Date of Decision: 18 .01.2022

Gaurav Goyal

...Petitioner

Versus

State of Haryana

...Respondents

CRM-M-19417-2021

Sanjay Singla

...Petitioner

Versus

State of Haryana

...Respondents

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present: Mr. Rajesh Gupta, Advocate,
for the petitioner in CRM-M-6991-2021.

Mr. P.S. Hundal, Senior Advocate with
Mr. Premjit Singh Hundal, Advocate
for the petitioner in CRM-M-19417-2021.

Mr. Amreek Singh Narwal, DAG, Haryana.

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.]

SANT PARKASH, J.

This order shall dispose of above-said two petitions arising out
of the same FIR.

Petitioners pray for pre-arrest bail in FIR No.596 dated
04.09.2020 under Sections 420/465/467/468/471/120-B IPC registered at
Police Station Shivaji Colony, Rohtak.

Brief facts of the case are that the State Government had
formulated a scheme, "Mission For Integrated Development of Horticulture"

for providing subsidy to the farmers. Under this Scheme, Gaurav Goel (petitioner in CRM-M-6991-2021) alongwith his family members Kamal Goyal and Kusam Goyal obtained subsidy of around Rs.75 lac by producing documents in respect to their residential addresses which were got verified from the concerned Department to be fake.

It is further alleged that Sanjay Singla (petitioner in CRM-M-19417-2021) is the Director of M/s Polyhub Agro Pvt. Ltd, which was empaneled with the State Government for the purpose of construction of polyhouses. In order to obtain the said subsidy, Sanjay Singla in collusion with the above-said persons, signed and verified the documents attached with the application form submitted by Gaurav Goyal & others for construction of polyhouse.

Vide order dated 09.11.2021, petitioners were granted the relief of ad-interim bail in furtherance of orders dated 03.05.2021 and 17.05.2021 passed in the respective cases whereby arrest of the petitioners had been stayed.

In CRM-M-6991-2021, reply by way of affidavit dated 10.03.2021 of Sh. Gorakhpal, H.P.S., Deputy Superintendent of Police, Rohtak, has been filed along with Annexures R-1 to R-3, while in CRM-M-19417-2021, in compliance of the order dated 17.05.2021, affidavit dated 24.09.2021 of Mission Director, Haryana State Horticulture Department Agency, Panchkula, has been filed.

In the affidavit dated 24.09.2021 of Mission Director, it has been mentioned that the State Government had formulated a scheme, “Mission For Integrated Development of Horticulture” for providing subsidy to the farmers to the tune of 65% of total cost as per approved rates

of the empaneled firms and one farmer could avail such assistance on one structure of 4,000 sq. meter maximum either on Insect Net House or polyhouse. The petitioner's firm was also one of the empaneled firms. It was mentioned in the guidelines for implementation of the Scheme that DHO will verify the documents as per check-list and will forward the case online on HORTNET to headquarters with his recommendation as per availability of the funds with them and that, there was no mechanism at the time of scrutiny of papers to know the genuineness of Ration Card except believing the undertaking in the affidavit form of the farmer that he is submitting the correct/genuine documents and if found incorrect/in genuine, then he/she will be responsible. Further, the then District Horticulture Officer-cum-Member Secretary, District Horticulture Mission Implementation Unit, Rohtak had also verified the documents before proceeding further in the cases. It also emerges from the affidavit of the Mission Director that the subsidy/assistance was released to the beneficiary farmers as per the policy/guidelines of the Department in phases through Direct Benefit Transfer in the bank account of the beneficiary concerned. It is also mentioned that structures of all the three cases had been duly constructed and were being utilized as on date also by the beneficiary farmers.

Learned senior counsel for the petitioner (Sanjay Singla) submitted that the administrative approval qua the subsidy was given by the Mission Director, Haryana State Horticulture Development Agency, Panchkula to the Member Secretary, District Horticulture Missions Implementation Unit, District Rohtak with the condition to accord the sanction of the cases and further subject to the condition that the Member

Secretary would inter alia verify all related documents before proceeding further in the matter. He further contended that the role of the petitioner was only that of providing services to the Department. He also submitted that he has been falsely implicated in the present case.

Learned counsel for the petitioner (Gaurav Goel) contended that the petitioner had purchased separate share of the land in question in his name from Sita Devi Memorial Education Trust vide registered sale-deed dated 19.01.2018, where the polyhouse in question was installed. He further submits that though the trustees of the above Trust are his family members but it will make no difference as sale consideration has been paid through cheque. He next contended that petitioner and other co-accused can be treated as separate family for the purpose of the availing the benefits of subsidy. He also submitted that it is not the case of the prosecution that the benefit of the scheme was available to the residents of Haryana only. The requirement was only ownership of land and separate family unit. He also submitted that the family of petitioner belongs to Haryana now residing in Delhi. It is case of documentary evidence, which are already with the investigating agency. He prays for acceptance of the present petition.

On the other hand, learned counsel for the State strongly opposed the bail applications. He submitted that said subsidy of Rs.75 lac has been obtained by the petitioners by producing forged and fabricated documents. However, he submitted that the petitioners have joined the investigation in compliance of order dated 09.11.2021.

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

Admittedly, polyhouse was constructed by obtaining subsidy of

Rs.75 lac. The photographs of polyhouse are available on the file as is evident from Annexure P-2, which is also not in dispute. The only allegation against the petitioners is that they obtained subsidy on the basis of forged ration cards. A perusal of the reply filed on behalf of the State along with Annexures appended thereto would reveal that ration card was not even one of the primary documents to be attached with other documents for obtaining the subsidy. The case depends on documentary evidence, which is already with the investigating agency. The role of petitioner-Sanjay Singla is stated to be only providing services for construction of polyhouse. There is no allegation against any of the petitioner that they misutilised the funds which was sanctioned and disbursed as subsidy for the installation of polyhouse. In compliance of order dated 09.11.2021 vide which the petitioners were granted anticipatory bail by this Court and the factum of their joining investigation is not even disputed, I deem it appropriate that petitioners deserve the benefit of relief under Section 438 Cr.P.C..

Taking into consideration the totality of circumstances, both the petitions stand allowed. The interim order dated 09.11.2021 is hereby made absolute, subject to the conditions as contained in Section 438(2) Cr.P.C.

18 .01.2022
mks/Avin

(SANT PARKASH)
JUDGE

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO