

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 210

CRM-M-35849-2021

Date of decision : 21.01.2022

Gurjeet Singh Johar and another

..... Petitioners

VERSUS

State of Punjab

..... Respondents

2.

CRM-M-35875-2021

Gurjeet Singh Johar and another

..... Petitioners

VERSUS

State of Punjab

..... Respondents

3.

CRM-M-35899-2021

Gurjeet Singh Johar and another

..... Petitioners

VERSUS

State of Punjab

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.S.S.Saron, Advocate, and
 Mr.Abhimanyu Bhandari, Advocate, for the petitioners.
 Ms.Rashmi Attri, AAG, Punjab.
 Mr.N.S.Sidhu, Advocate, for the complainants.

DEEPAK SIBAL, J. (ORAL)

The matter has been taken up through video conferencing.

This order shall dispose of three similar petitions being CRM-M-35849-2021, CRM-M-35875-2021 and CRM-M-35899-2021 all of which are titled-*Gurjeet Singh Johar and another vs State of Punjab*.

Through CRM-M-35849-2021 the petitioners seek anticipatory bail in FIR No.33 dated 26.02.2019; through CRM-M-35875-2021 in FIR No.10 dated 24.01.2019 and through CRM-M-35899-2021 in FIR No.196 dated 12.09.2019. All the aforesaid FIRs have been registered against them under Sections 406, 420 and 120-B IPC at Police Station Phase 1, Mohali.

Briefly stated, the case of the prosecution in all the above FIRs is that the Punjab Infrastructure Development Board invited proposals for the construction of a Bus Terminal-cum-Commercial Complex at Mohali (for short, the project). In response to such invitation M/s C&C Construction Company Limited, Gurgaon (for short, the company) submitted its proposal which was accepted and resultantly the company was awarded the work for construction of the project. To execute the project the company constituted a special purpose company by the name of C&C Towers Limited. The petitioners were directors in the company and on being lured by them, the complainants invested in the project. However, after accepting deposits from the complainants, the construction of the project was not completed and in such eventuality the complainants sought refund of their investments but the petitioners refused to do so. Therefore, the complainants got lodged the aforesaid FIRs against the petitioners for fraud and breach of trust.

Learned counsel for the petitioners *inter alia* submitted that on the same set of facts four FIRs were registered against the petitioners; through the instant petitions in three of such FIRs the petitioners seek anticipatory bail; in the fourth FIR bearing No.150 dated 14.08.2018 registered under Sections 406, 420 and 120-B IPC at Police Station Phase-1, Mohali, the petitioners, through CRM-M-30092-2021 *Gurjeet Singh Johar and another vs State of Punjab* had earlier approached this Court which petition of theirs was allowed on 26.08.2021; through SLP (Criminal) 25331-2021-*Ranjit Singh and others vs State of Punjab and others* the complainants challenged the aforesaid order of this Court before the Supreme Court which petition was dismissed on 06.12.2021; since the three FIRs, in which the petitioners seek anticipatory bail through the present petitions, are based on similar allegations as made in FIR No.150 dated 14.08.2018, on the strength of the reasons given by this Court in its aforesaid order dated 26.08.2021, which have been approved by the Supreme Court, the present petitions should also be accepted, especially when both the petitioners have voluntarily joined and cooperated with the investigating agency

and because the investigation in the case is also complete.

Learned State counsel as also learned counsel for the complainants very fairly submit that the present three cases of the petitioners would be covered by the aforesaid decision of this Court dated 26.08.2021 rendered in CRM-M-30092-2021. It is also not disputed that for the last about three years the petitioners, who are both senior citizens, have cooperated with the investigation which is now complete.

Admittedly, on the same set of allegations as contained in the three FIRs in which, through the present three petitions, the petitioners seek anticipatory bail, another FIR being FIR No.150 dated 14.08.2018 was also registered against the petitioners. Seeking anticipatory bail in that FIR, the petitioners had earlier knocked the doors of this Court through CRM-M-30092-2021. That petition of theirs was allowed on 26.08.2021. The operative part of such order reads as under: -

“6. It is certainly a case wherein the allegations against the petitioners and other accused pertain to depriving the complainants and other investors of a colossal amount of about Rs.500 crores, which had been collected by the petitioners for the purpose of allotting them shops/office spaces in the much hyped AC ISBT proposed to be constructed at Mohali. The question as to whether the accused had an intention of defrauding the investors from the very beginning or as to whether such intention developed later on or as to whether they are absolutely not at fault is a matter which can only be decided at the time of trial. It is not in dispute that the petitioners had associated with investigation and had never been sent behind bars or subjected to custodial interrogation during the last 3 years i.e. ever since the lodging of the FIR except for their formal arrest on 14.7.2020 when they were released on their personal bonds. The challan already stands presented. The petitioner no. 1- Gurjeet Singh Johar is stated to be aged 71 years and petitioner no. 2 - Charanbir Singh Sethi is stated to be aged 63 years. In these circumstances when the petitioners had been cooperating with the investigation and challan stands presented, there is hardly any room for sending them behind bars at this stage.

7. xxx xxx xxx

8. Although, the learned State counsel has submitted that there is apprehension that the accused who were accused of committing fraud of Rs.500 crores are likely to abscond but this Court is unable to accept the said contention, especially keeping in view the age of the accused and also their conduct during the last 3 years during which they have cooperated with the investigation and in fact even the police had not even chosen to arrest them. Consequently, in the light of ratio of recent judgment rendered by Hon'ble Supreme Court in Siddharth's case (Supra) and in light of the factual position in the instant case wherein chargesheet has been presented and the accused have not been sent behind bars during the last 3 years when they had been cooperating with the investigation, the petition merits acceptance and is hereby accepted.

9. The petitioners are directed to appear before the trial Court within one week from today. Upon their appearance, the trial Court shall release the petitioners on bail subject to their furnishing adequate bail bonds and surety bonds to its satisfaction. The trial Court would be at liberty to impose any such condition, as deemed appropriate at the time of accepting bail bonds so as to ensure that the accused appear regularly before the trial Court.

10. The petition stands accepted accordingly.”

(emphasis supplied)

Through the afore quoted order, after considering the allegations made against the petitioners, their age and conduct as also because the investigation of the case was complete, this Court was of the opinion that the petitioners' custodial interrogation was not necessary and resultantly, granted them anticipatory bail.

Through SLP (Criminal) 25331-2021-*Ranjit Singh and others vs State of Punjab and others* the aforesaid order of this Court was challenged by the complainants before the Supreme Court which was dismissed on 06.12.2021. Thus, the Supreme Court approved the grant of anticipatory bail to the petitioners in FIR No.150 dated 14.08.2018.

In the light of the admission that the FIRs which are the subject matter of the present petitions are based on the same set of allegations as contained in FIR No.150 dated 14.08.2018, the present petitions are held to be covered by the afore quoted judgment of this Court which has also been upheld by the Supreme Court. Therefore, the present petitions are also allowed in the same terms.

Resultantly, the petitioners are directed to appear before the Illaqa Magistrate/Trial Court within 15 days from today. Upon their appearance the Illaqa Magistrate/Trial Court shall release them on bail subject to their furnishing adequate bail bonds and surety bonds to its satisfaction.

21.01.2022
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No