

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

**Reserved on 23.08.2022
Date of Decision-05.09.2022**

1. CRM-M No.34718 of 2022(O&M)

Sadhu Singh Dharamsot ... Petitioner

Versus

State of Punjab ... Respondent

2. CRM-M No.34487 of 2022(O&M)

Daljit Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. APS Deol, Sr. Advocate with
Mr. Vishal Rattan Lamba, Advocate and
Mr. Himmat Singh Deol, Advocate
for the petitioner in CRM-M No.34718 of 2022.

Mr. R.S. Rai, Sr. Advocate with
Mr. Anurag Arora, Advocate and
Mr. Farhad Kohli, Advocate
for the petitioner in CRM-M No.34487 of 2022.

Mr. Vinod Ghai, Advocate General, Punjab with
Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab
for the respondent/State.

RAJ MOHAN SINGH, J.

[1]. Vide this common order, CRM-M No.34718 of 2022
titled Sadhu Singh Dharamsot Vs. State of Punjab and CRM-

M No.34487 of 2022 titled Daljit Singh Vs. State of Punjab are being disposed of.

[2]. Prayer in both the petitions is for grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.7 dated 06.06.2022 registered under Sections 7-A, 13(1)(a)(2) of Prevention of Corruption Act, 1988 (Amendment Act, 2018) and Section 120-B IPC at Police Station Vigilance Bureau, Flaying Squad 1, District SAS Nagar Mohali.

[3]. Petitioner Sadhu Singh Dharamsot belongs to political strata.

[4]. The present FIR has been registered at the instance of Harvinder Pal Singh, Deputy Superintendent of Police, Vigilance, Bureau, Unit SAS Nagar. During investigation of FIR No.6 dated 02.06.2022 under Sections 7, 7-A of the PC Act as amended by P.C. (Amendment) Act, 2018 and under Section 120-B IPC, Police Station Vigilance Bureau, Phase-1, Punjab at Mohali, accused Harmohinder Singh, Contractor, Forest Department made a statement under Section 27 of the Evidence Act that since 2017 till date, whatever bribe was being paid from time to time to the senior officers of Forest Department and political persons and their aides, he had maintained a diary, which was concealed by him in the basement of his residential house. He could get the diary recovered by identifying the place. On the basis of

aforesaid statement of Harmohinder Singh, diary was recovered and facts in detail were came to be known in respect of bribery paid to the Forest Department and political persons and their aides. The diary allegedly has the details of felling of khair trees, transfer of officers, amount of bribe allegedly paid to petitioner Sadhu Singh Dharamsot (Former Minister), regarding Amit Chauhan, regarding issuance of NOC, regarding purchase of tree guards, embezzlement in plantation drive, forgery in fake expenses of fencing, leveling of hill area in Mohali District and regarding mining.

[5]. During investigation, it was revealed that Harmohinder Singh since about 10 years was involved in contract-ship for felling of khair trees. Earlier he had worked with different contractors on commission basis. Since about 5 years, he was working as contractor through his Firm Guri Har Associates. They carried out the work of khair trees from the month of October to March, for which, they had to take permit from Forest Department. In lieu of this work, bribe was received by the Forest Department from them. For one season, the accused used to get permits of felling of about 7000 trees and for this purpose, an amount of Rs.500/- per tree was being paid to petitioner Sadhu Singh Dharamsot, who was Former Minister of Forest Department, an amount of Rs.200/- was being paid to the Division Forest Officer, an

amount of Rs.100/- was being paid to the Range officer, an amount of Rs.100/- was being paid to the Block Officer and an amount of Rs.100/- was being paid to the Forest Guard. In this way, an amount of Rs.1000/- was being paid for one tree and for 7000 trees, the amount came out to be Rs.70 lacs, which was being paid every year of season. About 15 contractors were involved in this business and they also had to pay in a similar manner. Non-payment of the aforesaid amount resulted in non-issuance of permit by the Forest Department and the contractor was being scared for imposition of heavy amount of penalty. During investigation, it was revealed that the petitioner was being paid bribe of Rs.500/- per tree and this amount was being collected by Kamaljit Singh, resident of Khanna, who is journalist of newspaper "*Jagbani*". This person has got the security of Punjab police. During investigation, it was further revealed that Amit Chauhan, Division Forest Officer was posted at Rupnagar. During this period, Harmohinder Singh got issued permits of felling of 1160 trees at Badiali Kalan Sub Division Anandpur Sahib from Amit Chauhan. For this purpose, he gave bribe of Rs.5,80,000/- @ Rs.500/- per tree. During investigation, it was also revealed that petitioner Sadhu Singh Dharamsot used to take Rs.10 to 20 lacs for transfer of DFO level as per division, for range, Rs.5 to 8 lacs, for block officer, about Rs.5 lacs and for guard, Rs.2 to 3 lacs as bribe. This

bribe was being collected by OSD of Minister Chamkaur Singh and Kamaljit Singh from the officers with the consent of the Ministers.

[6]. As per allegations, Sadhu Singh Dharamsot (petitioner) remained Forest Minister for about 3 years and he had received Rs.1 crore from the accused for issuance of permission of felling khair trees through Kamaljit Singh.

[7]. Besides, the aforesaid allegations, Amit Chauhan had also allowed illegal mining to aide of petitioner Sadhu Singh Dharamsot namely Kamaljit Singh. Petitioner Sadhu Singh Dharamsot used to take bribe through Chamkaur Singh and Kamaljit Singh for issuance of NOC. During the tenure of Sangat Singh Gilzian, Former Minister (Forests), Harmohinder Singh, contractor was issued a permit for felling of khair trees at village Nada, District Mohali and in consideration of that, Sangat Singh Gilzian had demanded bribe from the accused through Amit Chauhan, IFS. Harmohinder Singh had paid an amount of Rs.5 lacs to aide of Minister, Kulwinder Singh and after a lot of request, the amount which was to be paid to Amit Chauhan was kept as credit of Rs.5 lacs @ Rs.500/- each tree. During tenure of Sangat Singh Gilzian, Harmohinder Singh had purchased tree guards for the maintenance of plants, whereby Sangat Singh Gilzian had called all the DFOs of Punjab and a meeting was held. It was said that whatever

tree guards have to be purchased, these tree guards shall be supplied by Sachin Kumar i.e. known person of Sangat Singh Gilzian. The cost of one tree guard was affixed as Rs.2800/-, out of which Rs.800/- per tree guard was obtained by the Minister as commission. 80,000 tree guards were purchased in the State of Punjab. Out of this, an amount of Rs.6,40,00,000/- was received by Sangat Singh Gilzian as commission.

[8]. Learned Senior counsel for petitioner Sadhu Singh Dharamsot submitted that Harmohinder Singh @ Hummy has not been arrayed as an accused in FIR No.7 dated 06.06.2022 registered under Sections 7-A, 13(1)(a)(2) of Prevention of Corruption Act, 1988 (Amendment Act, 2018) and Section 120-B IPC at Police Station Vigilance Bureau, Flaying Squad 1, District SAS Nagar Mohali. Harmohinder Singh @ Hummy was arrested as a bribe giver in FIR No.6 dated 02.06.2022 under Sections 7, 7-A of the PC Act as amended by P.C. (Amendment) Act, 2018 and under Section 120-B IPC, Police Station Vigilance Bureau, Phase-1, Punjab at Mohali and now he is enjoying immunity under Section 8 of the PC Act. Learned Senior Counsel further submitted that under Section 8 of the PC Act (w.e.f. 26.07.2018), immunity given to the bribe giver before amendment of 2018 has been omitted and now bribe giver is given immunity only for a

period of seven days for informing the Law Enforcement Agency by way of proviso to Section 8 of the PC Act and thereafter, he has to be proceeded as an accused as per proviso to Section 8 of the PC Act substituted by Act 16 of 2018 w.e.f. 26.07.2018. The provisions of Section 8 of the PC Act shall not apply where a person is compelled to give such bribe/undue advantage. Provided further that a person so compelled, shall report the matter to the Law Enforcement Agency or Investigating Agency within a period of seven days from the date of giving such undue advantage. The bribe giver is also guilty of an offence under Section 8 of the PC Act. Learned Senior Counsel further submitted that the alleged admission/confession by Harmohinder Singh @ Hummy in the form of statement under Section 27 of the Evidence Act or under Section 161 Cr.P.C or under Section 164 Cr.P.C or in the form of alleged entries in the diary, is not admissible against petitioner Sadhu Singh Dharamsot as Harmohinder Singh @ Hummy has not been arrayed as an accused in FIR No.7 dated 06.06.2022, rather he has been cited as a prosecution witness in the report under Section 173 Cr.P.C. At the most, statement of Harmohinder Singh @ Hummy is hit by Section 30 of the Evidence Act so far as self implication is concerned. The statement at the most, could be proved as an admission against Harmohinder Singh @ Hummy himself, if at all, he has been arrayed as an accused in FIR No.7 dated

06.06.2022, but such confession so far as petitioner Sadhu Singh Dharamsot is concerned, is hit by Section 24 of the Evidence Act being the result of inducement and promise. In support of aforesaid assertion, learned Senior Counsel submitted that in FIR No.6 dated 02.06.2022, Harmohinder Singh @ Hummy being accused has been shown undue favour by the prosecution by not filing challan within the prescribed period, thereby enabling Harmohinder Singh @ Hummy to avail benefit of Section 167(2) Cr.P.C. Now the application for making him as an approver is also fixed for consideration before the trial Court. As per amended provision of Section 8 of the PC Act, Harmohinder Singh @ Hummy was to be arrayed as an accused in the aforesaid FIR No.7 dated 06.06.2022.

[9]. Learned Senior Counsel further submitted that the alleged diary recovered on the basis of disclosure statement of Harmohinder Singh @ Hummy in FIR No.6 dated 02.06.2022, does not fall under the definition of "Books of Accounts" as defined under Section 2(13) of the Companies Act.

[10]. Perusal of the diary noting would show that the entries are not incoherent, continuous and systematically maintained by the person, nor was the same maintained regularly during course of business, showing uniform pattern

since the year 2018. The random entries with undated noting are not admissible as a relevant fact under Section 34 of the Evidence Act. Learned Senior Counsel referred to para Nos.30 and 33 of **Central Bureau of Investigation Vs. V.C. Shukla, 1998(2) RCR (Criminal) 17** in support of his contention.

[11]. Learned Senior Counsel also relied upon **Sanjay Chandra Vs. Central Bureau of Investigation, (2012) 1 SCC 40** to contend that in case of economic offences of huge magnitude causing loss to the State Exchequer after investigation and filing of chargesheet, regular bail can be granted to the accused as bail is the Rule and committal to jail is an exception. Refusal to bail is a restriction of personal liberty of an individual, which has been guaranteed under Article 21 of the Constitution of India.

[12]. Learned Senior Counsel for petitioner Daljit Singh submitted that the petitioner is a practicing Advocate and has been nominated as an accused due to political vendetta. The real uncle of the petitioner namely Sangat Singh Gilzian was the Forest Minister in Punjab from 26.09.2021 to 08.01.2022. The present FIR has been registered only on the basis of disclosure statement of Harmohinder Singh in FIR No.6 dated 02.06.2022. In the present FIR, the allegations are made against the real uncle of the petitioner pertaining to his tenure

as Forest Minister of Punjab from 26.09.2021 to 08.01.2022. Petitioner being nephew of Sangat Singh Gilzian was pursuing litigation of his uncle.

[13]. *Per contra*, learned Advocate General, Punjab duly assisted by Mr. Gaurag Garg Dhuriwala, Sr. DAG, Punjab opposed the bail on the ground that the huge amount has been obtained as a bribe in allowing cutting of khair trees. As per statement of Satvir Pal Singh under Section 161 Cr.P.C dated 09.06.2022, an amount of Rs.17-18 lacs has been forcefully collected by petitioner Sadhu Singh Dharamsot from him in the year 2018 for cutting of 3050 trees. Statement of Harmohinder Singh @ Hummy under Section 161 Cr.P.C dated 13.06.2022 and under Section 164 Cr.P.C dated 21.06.2022 was also to the effect that he had paid about Rs.1 crore to the aide of the petitioner namely Kamaljit Singh. There is documentary evidence in the form of written diary/ledger of Harmohinder Singh @ Hummy, Contractor, in which, entry has been made at page No.12 in respect of payment of Rs.22,50,000/- to petitioner Sadhu Singh Dharamsot through Kamaljit Singh @ Kamal, entry at page No.15 in respect of payment of Rs.15,00,000/- to petitioner Sadhu Singh Dharamsot through Kamaljit Singh @ Kamal, entry at page No.16 in respect of payment of Rs.25,00,000/- to petitioner Sadhu Singh Dharamsot through Kamaljit Singh

@ Kamal and second entry appearing at page No.16 in respect of payment of Rs.5,40,000/- to petitioner Sadhu Singh Dharamsot through Kamaljit Singh @ Kamal. FSL report qua the diary entries is still awaited. Challan has already been submitted qua petitioner Sadhu Singh Dharamsot.

[14]. By referring to the aforesaid diary entries, learned Advocate General submitted that the aforesaid evidence is a corroborative evidence in respect of permits to cut khair trees issued by the concerned DFOs. During investigation, CPU was recovered on the basis of confession made by co-accused Kamaljit Singh under Section 27 of the Evidence Act, in which, he made an account of ledger for expenses incurred on Khanna MC Elections of Paramjit Kaur Laalka (distant relative of ex-Minister Sadhu Singh Dharamsot). According to this ledger, total expenditure of Rs.10,63,780/- was made by Kamaljit Singh on the asking of petitioner Sadhu Singh Dharamsot out of the money collected as a bribe. The proximity of Paramjit Kaur Laalka with Sadhu Singh Dahramsot (petitioner) is stated to be proved by the statement of ASI Harbhajan Singh, PSO to the petitioner and also in the interrogation of the co-accused Kamaljit Singh and Chamkaur Singh. Learned Advocate General also submitted that Guramanpreet Singh, DFO told Harmohinder Singh @ Hummy that he has to arrange wood (MP Teak) for new

house construction of the petitioner at Amloh and further asked Harmohinder Singh @ Hummy to pay Rs.15,50,000/- against the purchase of wood. An amount of Rs.10 lacs was transferred from Hummy's Firm Gurhar Associates to the vendor in February 2021 and remaining amount of Rs.5.50 lacs was paid in cash. Learned Advocate General refers to photostat copies of relevant cheques obtained in that context.

[15]. By referring to the statement of Ashok Kumar Kanda, Private Consultant under Section 161 Cr.P.C dated 17.06.2022 and under Section 164 Cr.P.C dated 20.06.2022, learned Advocate General submitted that Sadhu Singh Dharamsot (petitioner) had received bribe in lieu of issuance of NOCs. According to the statement of Ashok Kumar Kanda, he met the petitioner and Parveen Kumar, IFS for the purpose of issuance of NOCs. Parveen Kumar told him that the petitioner has clearly instructed that no NOC should be issued without getting the share of money i.e. Rs.25,000/- per NOC. In case of NOC for petrol pump, an amount of Rs.1 lac was paid to the petitioner. Ashok Kumar Kanda had paid Rs.15 to 20 lacs to the petitioner through Parveen Kumar, IFS.

[16]. On the basis of aforesaid allegations, learned Advocate General submitted that the petitioner had mis-conducted himself, thereby committing an offence under the Representation of People Act. During Assembly Election of

2022, he has submitted wrong information regarding his immovable property as well as properties in his wife name at the relevant time. He concealed relevant information in respect of assets available in the name of his wife. Petitioner has accumulated disproportionate assets beyond non-source of his income.

[17]. Though learned counsel for the parties have tried to argue on merits of the documents, the execution of which is still to be proved, but any observation made by this Court at this stage on merits of those documents, may prejudice the case of either of the parties during trial.

[18]. Admittedly, petitioner Sadhu Singh Dharamsot is in judicial custody and challan has already been submitted qua him. The presence of the petitioner is no more required for any further investigation of the case. The complicity of the petitioner would remain debatable on the basis of quality of evidence to be led by the parties during trial. Such evidence would also be subject to lawful consideration of the trial Court. FSL report qua the diary entries is still awaited. The alleged recovery of the amount and incriminating material from co-accused Kamaljit Singh and Chamkaur Singh in the context of proving complicity of the petitioner would also remain debatable. The probative value of CPU and few pages of diary would also remain debatable and would be tested by the trial

Court on legal parameters. Petitioner Sadhu Singh Dharamsot was arrested and remained under police remand, but no recovery could be effected from the petitioner. The disclosure statement of Harmohinder Singh @ Hummy was recorded on 04.06.2022 in FIR No.6 dated 02.06.2022 and present FIR came to be registered thereafter. Evidently, the allegations against Sadhu Singh Dharamsot (petitioner) are based on documentary evidence and the admissibility of those documents would be tested by the trial Court during trial.

[19]. Daljit Singh (petitioner) has been nominated as an accused on 12.07.2022 in the present FIR when the case of his uncle was listed in the trial Court. Two statements of DFOs, namely Monika and Nitin were recorded and the petitioner has no connection whatsoever in the context of those statements. The allegations are that the petitioner used to speak to the departmental people. Petitioner was arrested on 13.07.2022 and despite, 8 days of police remand, no recovery was effected from him. The petitioner has not transacted any business dealings on behalf of his uncle and has not committed any wrong, except to pursue the case of his uncle in court of law being an Advocate. Petitioner has no role. FIR is silent about the involvement of the petitioner in the alleged commission of offence. Petitioner has not been nominated as an accused in the FIR despite the fact the

Investigating Agency has claimed that FIR has been lodged after due investigation. FIR has been lodged on the basis of disclosure statement of Harmohinder Singh @ Hummy. He has not uttered a single word against the petitioner or his role in any manner in the FIR. There is no mention of any family member of Sangat Singh Gilzian in the alleged diary. Even during investigation, nothing incriminating has surfaced against the petitioner.

[20]. Sadhu Singh Dharamsot, Chamkaur Singh and Kamaljit Singh were arrested and remained on police remand, but nothing incriminating could be surfaced against Daljit Singh (petitioner). Co-accused Guramanpreet Singh was arrested and remained on police remand for 5 days, but no incriminating material could be brought on record by the Investigating Agency against Daljit Singh (petitioner). Thereafter, co-accused namely Nitin Bansal has also been arrested and during his police remand also, no incriminating material could be collected against the petitioner. Evidently, from 07.06.2022 to 12.07.2022, various persons have been arrested, but the Investigating Agency could not establish any link between the petitioner and those persons.

[21]. It is relevant to mention here that Sangat Singh Gilzian has filed CRM-M No.27628 of 2022 for quashing of FIR, in which notice of motion has been issued and the said

petition is still pending in the High Court. Sangat Singh Gilzian has also filed CRM-M No.30346 of 2022, in which stay of arrest of the co-accused has been granted. The said petition is also pending.

[22]. The allegations against the petitioner is that he is indirect recipient of bribe. Such an allegation cannot be presumed on its face value and would always remain subject matter of material to be produced before the trial Court during trial. Amit Chauhan, IFS never remained as Divisional Forest Officer at Rupnagar. Sachin Kumar has not supplied any tree guard at any point of time and this fact has been proved. The lodging of present FIR even after preliminary inquiry/investigation, does not advance any case against the petitioner in respect of his alleged complicity. Challan qua Daljit Singh (petitioner) has not been submitted, but the petitioner remained on police remand for about 8 days and no recovery could be effected from him.

[23]. In view of facts and circumstances of the case and without meaning anything on merits of the case, I deem it appropriate to grant regular bail to the petitioners.

[24]. In view of above, both the petitions are allowed. Petitioners are ordered to be released on regular bail subject to their furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate.

[25]. Nothing expressed hereinabove, would be construed to be an expression of opinion on the merits of the case.

(RAJ MOHAN SINGH)
JUDGE

05.09.2022
Prince

Whether reasoned/speaking Yes/No

Whether reportable Yes/No