

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

Reserved on: 19.09.2022

Date of Decision: 27.10.2022

1. CRM-M No.41303 of 2022

Guramanpreet Singh

.....Petitioner

Vs

State of Punjab

.....Respondent

2. CRM-M No.41470 of 2022

Kamaljeet Singh Kamal

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. APS Deol, Senior Advocate with
Mr. Vishal Rattan Lamba, Advocate
for the petitioner in CRM-M No.41303 of 2022.

Mr. P.S. Ahluwalia, Advocate
for the petitioner in CRM-M No.41470 of 2022.

Mr. Gaurav Garg Dhuriwala, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J.

[1]. Vide this common order, CRM-M Nos.41303 and 41470 of 2022 are being decided. Since both the petitions have arisen from the one FIR, therefore, for brevity common facts are being noticed.

[2]. Both the petitioners seek grant of regular bail under

Section 439 Cr.P.C in case bearing FIR No.7 dated 06.06.2022 registered under Sections 7, 7-A, 13(1)(a)(2) of the Prevention of Corruption Act, 1988 (Amendment Act , 2018) and under Section 120-B, IPC, 1860, (409, 420, 465, 467, 468, 471 IPC added later on) at P.S. V.B. F.S.1, Punjab at Mohali, District SAS Nagar.

[3]. The FIR in question has been registered on the statement 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 Prevention of Corruption Act as amended from time to time and under Section 120-B IPC, Police Station Vigilance Bureau, Phase-1, Punjab at Mohali, the 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 same recovered by way of identifying the place. On the basis of aforesaid statement of Harmohinder Singh, diary was recovered and the details mentioned therein came to be known in respect of bribe paid to the Forest Department, political persons and

their aides. The diary is alleged to have contained the details of felling of *Khair* trees, transfer of officers, amount of bribe allegedly paid to the then Forest Minister (Sadhu Singh Dharamsot), 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 areas in Mohali District and regarding mining.

[4]. During investigation, it was revealed that Harmohinder Singh for the last about 10 years was involved in contractorship of felling of *Khair* trees. Earlier he had worked with different contractors on commission basis. For the last about 5 years, he was working as contractor through his firm namely M/s Gurhar Associates. They carried out the work of *Khair* trees from the month of October to March for which they had to take permit from the Forest Department. In lieu of this work, bribe was received by the Forest Department from time to time. For one season, the accused used to get permit of felling of about 7000 trees and for this purpose, an amount of Rs.500/- per tree was being paid to Sh. Sadhu Singh Dharamsot, who was the Forest Minister, an amount of Rs.200/- was being paid to the Divisional 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 lakhs, which was being paid every season in the year. About 15 contractors were involved in this business and they also had to pay in the similar manner. Non-payment of the aforesaid amount would have resulted in non-issuance of permit by the Forest Department and the contractors were also scared of imposition of heavy amount of penalty. During investigation, it was revealed that the then Forest Minister (Sadhu Singh Dharamsot) 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". He was having 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/- i.e. Rs.500/- per tree. During investigation, it was also revealed that the then Forest Minister (Sadhu Singh Dharamsot) used to take Rs.10 to 20 lakhs for transfer of DFO level as per Division, for range level Rs.5 to 8 lakhs, for Block Officer an amount of Rs.5 lakhs and for guard Rs.2 to 3 lakhs as bribe. This bribe was being collected by OSD of Minister namely Chamkaur Singh and Kamaljit Singh from the

officers with the consent of the Minister. Sh. Sadhu Singh Dharamsot remained Forest Minister for about three years and he had allegedly received Rs.1 crore from the contractors for issuance of permission of felling *khair* trees through Kamaljit Singh.

[5]. Besides, the aforesaid allegations, Amit Chauhan had also allowed illegal mining to the aides of the then Forest Minister (Sadhu Singh Dharamsot) namely Kamaljit Singh. The then Forest Minister (Sadhu Singh Dharamsot) used to take bribe through Chamkaur Singh and Kamaljit Singh for issuance of no objection certificate. 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 lakhs 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 lakhs ie. 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 it was told 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 fixed 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.

[6]. Learned Senior counsel for the petitioner- Guramanpreet Singh submitted that Harmohinder Singh @ Hummy has not been arrayed as an accused in FIR No.7 dated 06.06.2022 registered under Sections 7, 7-A, 13(1)(a)(2) of the Prevention of Corruption Act, 1988 (Amendment Act, 2018) and under Section 120-B IPC at Police Station Vigilance Bureau, Flying Squad 1, District SAS Nagar Mohali. He was arrested as a bribe giver in FIR No.6 dated 02.06.2022 under Sections 7, 7-A of the aforesaid Act as amended in the year 2018 and under Section 120-B IPC, Police Station Vigilance Bureau, Phase-1, Punjab at Mohali and now Harmohinder Singh @ Hummy is enjoying immunity under Section 8 of the aforesaid Act.

[7]. By referring to Section 8 of the aforesaid Act (w.e.f. 26.07.2018), learned Senior counsel further submitted that the 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 7 days for informing the Law Enforcement Agency by way of proviso to Section 8 of the Act and thereafter, he has to be proceeded as an accused as per proviso to Section 8 of the Act as substituted by Act No.16 of 2018 w.e.f. 26.07.2018. The provisions of Section 8 of the Act shall not apply where a person is compelled to give such bribe or 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 7 days from the date of giving such undue advantage. The bribe giver is also guilty of an offence under Section 8 of the Act.

[8]. Learned Senior Counsel further submitted that the alleged admission/confession by Harmohinder Singh @ Hummy 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 the petitioner-Guramanpreet Singh 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 of Harmohinder Singh @ Hummy at the most, could

be proved as an admission against 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 other accused are concerned, is hit by Section 24 of the Evidence Act being the result of inducement and promise. Learned Senior counsel further submitted that in FIR No.6 dated 02.06.2022, Harmohinder Singh @ Hummy being accused has been given undue favour by the prosecution by not filing challan within the prescribed period. Due to the aforesaid inaction Harmohinder Singh @ Hummy was given opportunity to avail benefit of Section 167(2) Cr.P.C. Now the application for making him as an approver is also pending for consideration before the trial Court. In view of amended provision of Section 8 of the Prevention of Corruption Act, Harmohinder Singh @ Hummy has to be arrayed as an accused in FIR No.7 dated 06.06.2022 as the immunity is given only for a period of 7 days for enabling the law enforcement agency and thereafter he has to be proceeded as an accused as per proviso to Section 8 of the aforesaid Act as substituted by Act No.16 of 2018 w.e.f. 26.07.2018.

[9]. Learned Senior counsel further submitted that the diary allegedly recovered on the basis of disclosure statement of accused 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. Perusal of the diary notings would show that the same 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 notings 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.

[10]. Learned Senior Counsel by relying upon **Sanjay Chandra vs. Central Bureau of Investigation, (2012) 1 SCC 40; P. Chidambaram vs. Directorate of Enforcement, (2020) 13 SCC 791; Arnesh Kumar vs. State of Bihar & Anr. 2014 (3) R.C.R. (Criminal) 527; Satender Kumar Antil vs. Central Bureau of Investigation (SC) SLP (Crl.) No.5191 of 2021 decided on 11.07.2022** and **Mohammed Zubair vs. State of NCT of Delhi & Ors., WP (Crl.) No.279 of 2022 decided on 20.07.2022** further submitted that in case of economic offences of high magnitude causing loss to the State Exchequer, regular bail can be granted after investigation and filing of chargesheet. Grant of bail is the Rule and committal to jail is an exception. Refusal to grant bail is a restriction of personal liberty of an

individual which has been guaranteed under Article 21 of the Constitution of India. Petitioner-Guramanpreet Singh is DFO and co-petitioner Kamaljeet Singh Kamal in CRM-M No.41470 of 2022 is an aide of former Forest Minister (Sadhu Singh Dharamsot). The accusation against the petitioner(s) is arising out of the alleged diary entries.

[11]. Learned counsel for the petitioner-Kamaljeet Singh Kamal also reiterated the aforesaid case facts and submitted that petitioner-Kamaljeet Singh Kamal was arrested on 07.06.2022 and only a CPU was allegedly recovered from him. Custody of both the petitioners is no more required for further investigation of the case as the challan has already been submitted to the Court.

[12]. Per contra, learned State counsel 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 lakhs has been forcefully collected by the former Forest Minister (Sadhu Singh Dharamsot) from him in the year 2018 for cutting of 3050 trees. Statements 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 were also to the same effect that he had paid an amount of Rs.1 crore to the

aide of the then Forest Minister (Sadhu Singh Dharamsot) namely Kamaljit Singh (petitioner in CRM-M No.41470 of 2022). Harmohinder Singh has made entries in the alleged diary in respect of payments made to the former minister through Kamaljit Singh @ Kamal at page No.15 and 16. FSL report qua the diary entries is still awaited. Challan has already been submitted.

[13]. Learned State counsel further 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 Kamal (petitioner in CRM-41470 of 2022) under Section 27 of the Evidence Act. In his confession, Kamaljeet Singh, 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 former minister Sadhu Singh Dharamsot out of the money collected as a bribe. The proximity of Paramjit Kaur Laalka with former minister Sadhu Singh Dahramsot is stated to be proved by the statement of ASI Harbhajan Singh, PSO to the said former minister and also in the interrogation of the co-

accused Kamaljit Singh and Chamkaur Singh.

[14]. Learned State counsel further submitted that Guramanpreet Singh, DFO (petitioner in CRM-M No.41303 of 2022) told Harmohinder Singh @ Hummy that he has to arrange wood (MP Teak) for new house under construction of the then Forest Minister (Sadhu Singh Dharamsot) at Amloh and further asked Harmohinder Singh @ Hummy to pay Rs.15,50,000/- against the purchase of wood. An amount of Rs.10 lakhs was transferred from Hummy's firm M/s Gurhar Associates to the vendor in February 2021 and remaining amount of Rs.5.50 lakhs was paid in cash.

[15]. Learned State counsel by referring to the statements 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, further submitted that the then Forest Minister (Sadhu Singh Dharamsot) had received bribe in lieu of issuance of NOCs. According to the statement of Ashok Kumar Kanda, he met the said former minister and Parveen Kumar, IFS for the purpose of issuance of NOCs. Parveen Kumar told him that the then Forest Minister (Sadhu Singh Dharamsot) has clearly told him 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 lakh was paid to the said former

minister. Ashok Kumar Kanda had paid Rs.15 to 20 lakhs to the said former minister through Parveen Kumar, IFS. On the basis of aforesaid incriminating allegations, learned State counsel sought to oppose the grant of regular bail to both the petitioners.

[16]. I have considered the submissions made by learned counsel for the parties and have perused the material produced by them.

[17]. The challan has already been submitted. Co-accused Sadhu Singh Dharamsot and Daljit Singh have already been granted regular bail by this Court vide order dated 23.08.2022 passed in CRM-M No.34718 of 2022 and CRM-M No.34487 of 2022 respectively. No recovery has been effected from the petitioner-Guramanpreet Singh, who was arrested on 10.06.2022. In FIR No.6 dated 02.06.2022, police remand was sought till 15.06.2022. During this period of five days, no amount was recovered from the petitioner, nor was any incriminating material recovered to corroborate the entries in the alleged diary. Challan has already been submitted on 04.08.2022. Co-accused Kamaljeet Singh Kamal (petitioner in CRM-M No.41470 of 200) was arrested on 07.06.2022 and only a CPU was allegedly recovered from him

[18]. The complicity of the petitioner(s) on the basis of allegations would remain debatable and the same can be

proved on the basis of quality of evidence to be led by the parties during trial and such evidence would also be subject to the lawful consideration by the trial Court. The FSL report qua diary entries is still awaited. The probative value of CPU and few pages of diary would remain debatable and would be tested by the trial Court on legal parameters. The disclosure statement of Harmohinder Singh was recorded on 04.06.2022 in FIR No.6 dated 02.06.2022 and present FIR came to be registered thereafter. The allegations are based on documents and the admissibility of those documents would be tested by the trial Court during trial. Petitioner-Guramanpreet Singh was arrested and remained on police remand for five days. No incriminating material could be brought on record by the investigating agency. Co-accused Nitin Bansal was also arrested. During his police remand also no incriminating material could be collected against the petitioner(s). From 07.06.2022 to 12.07.2022 various persons were arrested and the alleged material collected would remain debatable in order to establish any link between the petitioner(s) and those persons arrested. 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 has been granted. The said petition is also pending in the High Court.

[19]. Looking to the aforesaid facts and circumstances of the case and without adverting to the merits of the case(s), I deem it appropriate to enlarge both the petitioners on regular bail.

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

[21]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case(s).

October 27, 2022
Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No