

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

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CRM-M-50079-2022  
Date of decision : 31.10.2022

Bhagirath Rai Goyal

... Petitioner

Versus

State of Punjab

... Respondent

***CORAM: HON'BLE MR.JUSTICE VIKAS BAHL***

Present: Mr. Vishal Garg Narwana, Advocate;  
Mr.Rajat Sheokand, Advocate and  
Mr.Sourabh Sheoran, Advocate  
for the petitioner.

Mr. Ramdeep Partap Singh, Sr.DAG, Punjab.

**VIKAS BAHL, J.(ORAL)**

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.26 dated 25.09.2022 registered under Sections 420, 406, 409, 465, 467, 471, 120-B IPC at Police Station Vigilance Bureau, Patiala, District Patiala.

Learned counsel for the petitioner has submitted that in the present case, the FIR has been registered after a delay of 5 years inasmuch as the allegations levelled therein pertain to the year 2017 whereas, the FIR has been registered in the year 2022. It is submitted that the FIR has been registered on the basis of political vendetta. It is stated that in the FIR there are primarily three allegations levelled which are detailed hereunder:-

- i) The petitioner, who was President of Municipal Council, Sunam, had got the repair work of government vehicle no. PB

13W 0955 make Balero done from Swami Auto Mobile Private Limited, Mahindra Company Zirakpur from 10.11.2010 to 22.11.2010 and also made the payment of Rs.35,199/- to the company towards its repair but as per the log book, the said vehicle was shown to be moving / working in the area of Sunam on the said dates and consumption of 149 litre diesel to the extent of Rs.5960/- was shown.

ii) From the office of Municipal Council, Sunam, one private vehicle no.PB13 AB 7345 make Ertiga was hired on tender basis for one year from the grand son of the petitioner, namely Chandan Goyal, for Rs.24,000/- per month with diesel 200 litres per month, being the lowest tender rate and it is the petitioner, who in connivance with other officials, from 23.02.2017 to 31.03.2017 had made the payment of Rs.28,800/- with respect to the usage of said vehicle regarding which no log book has been maintained.

iii) The open auction fixed on 19.06.2017, in which the highest bid was given by Manish Kumar for Rs.3,72,000/-, was cancelled and no auction was conducted with respect to the tender for the advertisements.

It is submitted that on the basis of the said allegations, it has been alleged that the petitioner had caused loss of Rs.4,06,760/- to the government. Learned counsel for the petitioner has submitted that each of the said allegations is false and baseless and with respect to the first allegation, it is argued that no repair work was done on the government vehicle no.PB 13W 0955 make Balero from 10.11.2010 to 22.11.2010 and

there is no record or documentary evidence produced with respect to the alleged payment of Rs.35,199/- to Swami Auto Mobile Pvt.Ltd. to prove the said allegation and there is no DDR regarding any accident involving the said Balero Vehicle. With respect to the second allegation, it is argued that a public notice inviting tenders was issued with respect to hiring of vehicles on rent for the Municipal Council and the said public notice has been annexed as Annexure P-2 and in pursuance of the same, three tenders were received and after the comparative statement of bid was prepared, Chandan Goyal was awarded the tender as he had offered the lowest tender rate of Rs.25,000/- per month with diesel 240 litres and even negotiations were carried out and thereafter, the tender was allotted to said Chandan Goyal at the rate of Rs.24,000/- per month with 200 litres of diesel per month. A copy of the said proceedings has been annexed as Annexures P-3 and P-4, respectively. It is further highlighted that the log book pertaining to the usage of the above said vehicle was duly maintained by the Municipal Council, Sunam, which fact is evident from the letter dated 22.02.2018 sent by Chandan Goyal to the Executive Officer, Municipal Council, Sunam and was duly received on 01.03.2018, in which a request was made for payment of the outstanding amount and the said log book was stated to be attached with the said letter but the same has been purposely misplaced by the prosecution. With respect to the third allegation, it is submitted that the tender of advertisements was held on 19.06.2017, but the concerned committee of the Municipal Council, Sunam, cancelled the resolution of tender advertisement and no auction of the same was conducted and the petitioner had not received any personal benefit out of the said cancellation.

It is submitted that the abovesaid tender was cancelled due to some

technical reasons by passing resolution no.268 and the same was cancelled unanimously by the Municipal Council, Sunam and it was suggested that the auction should be conducted clusterwise and the concerned proceeding register of Municipal Council, Sunam has been annexed as Annexure P-6. It is further submitted that the petitioner is a 73 year old person who is suffering from various old age ailments and is also a heart patient and has undergone bypass surgery and has even had stunts installed twice. It is stated that the petitioner has been in custody since 28.09.2022 and the presentation of challan and the conclusion of trial is likely to take time and the case is triable by the Magistrate and the petitioner is not involved in any other case.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the investigation is not complete as yet.

This Court has heard learned counsel for the parties and has perused the paper book.

The petitioner has been in custody since 28.09.2022 and the presentation of challan will take time and the petitioner is stated to be not involved in any other case and the alleged offences are triable by the Magistrate. Moreover, the petitioner is stated to be 73 years of age and is stated to be suffering from numerous old age problems, including heart problems. The entire case is based on documentary evidence and in order to rebut the allegations levelled in the FIR, strong arguments have been raised by learned counsel for the petitioner which have been noticed hereinabove and the said aspects would be finally considered during the course of the trial.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned Chief Judicial Magistrate / Illaqa Magistrate/ Duty Magistrate and subject to him not being required in any other case.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)  
JUDGE

October 31, 2022  
*Davinder Kumar*

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|-----------------------------|--------|
| Whether speaking / reasoned | Yes/No |
| Whether reportable          | Yes/No |