

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

**CRM-M No.51877 of 2022(O&M)
Date of Decision: 19.12.2022**

Sukhwinder Singh

.....Petitioner

Vs

State of Punjab

.....Respondent

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

Present: Mr. Akshay Jain, Advocate
for the petitioner.

Mr. R.S. Pandher, Sr. DAG, Punjab.

RAJ MOHAN SINGH, J.

CRM No.49282 of 2022

For the reasons mentioned in the application, the same is allowed. Annexures P-11 and P-12 are taken on record subject to all just exceptions.

Main case

[1]. The petitioner seeks 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 and

Section 120-B IPC (Sections 409, 420, 465, 467, 468, 471 IPC added later on) at Police Station Vigilance Bureau, Flying Squad-1, Punjab at Mohali.

[2]. Learned State counsel has filed affidavit of Harvinder Pal Singh, PPS, Deputy Superintendent of Police, Vigilance Bureau, Unit, SAS Nagar, Mohali on behalf of the respondent in compliance of order dated 08.12.2022. The affidavit along with accompanying documents are taken on record subject to all just exceptions.

[3]. FIR 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 and under Section 120-B IPC, Police Station Vigilance Bureau, Phase-1, Punjab at Mohali, the co-accused Harmohinder Singh, Contractor, Forest Department made a statement under Section 27 of the Evidence Act that since 2017, he had maintained a diary in respect of bribe, which was being given by him from time to time to the senior officers of Forest Department and political persons and their aides. The diary was concealed by him in the basement of his residential house and he could get the same recovered by demarcating the place. On the basis of aforesaid statement of Harmohinder Singh, the diary was recovered and contents thereof, came to be known to the police. The diary allegedly contained the details of falling of khair trees, transfer of officers, amount of bribe allegedly paid to the then Forest Minister, reference made to the

officers of the Department with reference to issuance of NOC, reference of 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, Harmohinder Singh has allegedly disclosed the factum of payments, which were being made to different persons in respect of falling of khair trees.

[5]. Learned counsel for the petitioner submits that the petitioner was not initially named in the FIR, however, during investigation, certain imputations have been made regarding purchase of tree guards in the year 2021.

[6]. The allegations against the petitioner as summed up in para No.6 of the order dated 28.10.2022 passed by the Judge, Special Court, SAS Nagar are as under:-

“6. So far as the role of the petitioner Sukhwinder Singh in the alleged occurrence is concerned, it has come on record during the course of investigation that the Forest Range Officer, Budhlada has produced on dated 17.08.2022 the original bills, which are examined and verified during the investigation and it was found that the petitioner was posted as the Forest Range Officer at Budhlada in November, 2021 and the co-accused Amit Chauhan, IFS was posted as the Divisional Forest Officer, Mansa at that time and the Chief Forest Conservator has given approval under CA Scheme for purchase of 5872 RCC tree guards in the year 2021 for Mansa Division and the budget was allotted to the Divisional Forest Officer,

Mansa for preparing 2537 tree guards for Budhlada Range, the total cost price of which comes out to be Rs.45,69,000/- .

It has further come on record that the petitioner, who was the then Forest Range Officer, Budhlada had got the purchase bills of the material for preparation of 2537 tree guards from M/s Ambay Cement Store, Govt. Girls School Road, Channo and M/s Jain Cement and Accessories Store, Bathinda-Patiala Road, Patiala. It has further come on record during the course of investigation that the aforesaid M/s Ambay Cement Store was having its GSTIN/UIN: 03BAYPG6601A1Z7 and Mobile No.98159-9961549 upon the aforesaid bills, however, this firm alongwith its aforesaid GST and Mobile number was not found existing at the address given in the bills. Similarly, the aforesaid M/s Jain Cement and Accessories Store was having its GSTIN/UIN: 05ABTYU8901ALFG and Mobile No.89695-88253 upon the aforesaid bills, however, this firm alongwith its aforesaid GST and Mobile number was not found existing at the address given in the bills. The aforesaid GST numbers of the aforesaid firms were also not issued by the concerned Government Department and the same were also found to be forged and fabricated.

It has further come on record during the course of investigation that thereafter, the official bank account record of the Forest Range Officer, Budhlada was also obtained, whereby it was found that one bank account no.50200048467312 with the HDFC Bank was operated at the official level by the Forest Range

Officer, Budhlada and the aforesaid amount of Rs.45,69,000/- was transferred from the Government Account to the aforesaid Government Bank Account No. 50200048467312 in the name of the Forest Range Officer, Budhlada through different entries. However, it was also found that the petitioner, who was the then Forest Range Officer, had also got opened another bank account no. 909010045203306 with the Axis Bank and whenever the aforesaid amount of Rs.45,69,000/- was transferred through different entries in the aforesaid bank account with the HDFC Bank, then immediately, the petitioner used to get transferred the same amount in the aforesaid another bank account with the Axis Bank and thereafter, the petitioner himself or another person Baljit Singh used to withdraw the aforesaid amount in cash deposited through various bank entries.

It has further come on record during the course of investigation that whereas, the aforesaid purchase bills of the aforesaid M/s Ambay Cement Store and M/s Jain Cement and Accessories Store shows that the alleged payment was made through RTGS transaction to them and these bills were approved by the co-accused Amit Chauhan, the then Divisional Forest Officer.

It has further come on record during the course of investigation that the aforesaid forged and fabricated purchased bill were forged at the same place as the purchase bills bearing the name M/s Jain Cement and Accessories Store has the correct firm name and it has the rubber stamp impression of Jain Cement and

Accessories at the place where authorized signatory is written, whereas, in the typed form for Ambay Cement has been written on the same purchase bill, which is the name of another different firm, which further shows that the aforesaid purchase bills are forged documents.

It has further come on record during the course of investigation that the aforesaid Baljit Singh, who used to withdraw the aforesaid amount in cash, has been associated during the investigation and he has disclosed during the investigation that he has been employed as Baildar on temporary basis and used to do the official work. He has further disclosed during the investigation that whatever amount in cash was withdrawn by him from the aforesaid bank account, the same was withdrawn on the directions of the petitioner Sukhwinder Singh and handed over to him.

It has further come on record that the petitioner, who was the then Forest Range Officer, Budhlada had got the different purchase bills amounting to Rs.7,00,000/- of tree guards in December, 2021 from M/s Guru Kirpa Bamboo Store, Barnala-Bhikhi Road, Matti Mansa, Punjab. It has further come on record during the course of investigation that the aforesaid M/s Guru Kirpa Bamboo Store was having its PAN: AJIPG1160A and Mobile No.98725-25891 upon the aforesaid bills, however, this firm alongwith its aforesaid PAN and Mobile number was not found existing at the address given in the bills. The aforesaid PAN numbers of the aforesaid firms were also not issued by the concerned Government Department and the same were also found to be forged

and fabricated. Furthermore, these purchase bills were also obtained by the co-accused Amit Chauhan, Divisional Forest Officer, Mansa. Furthermore, the aforesaid mobile number 98725-25891 is being operated in the name of one Gurjit Singh, who has been joined in the investigation and he told that he has been working as bus driver since 2012 with the PRTC, Bathinda. He has further disclosed that he does not know anything about the aforesaid firm and he has no connection whatsoever with the aforesaid firm/forest department and the signatures upon the aforesaid bills are forged. He has further disclosed that the account number written on the aforesaid alleged purchase bills is not his account and he has only one salary account with the State Bank of India and he has no other account.

Thus, this Court is of the considered view that as per the aforesaid allegations, the petitioner has played an important role in the aforesaid alleged scam in the Forest Department after misusing his official position.

Furthermore, the arguments raised by the Learned counsel for the petitioner pertain to disputed question of facts, which can only be ascertained after leading of evidence during trial and thus, the same are not of any help to the petitioner at this preliminary stage of investigation.”

[7]. Learned counsel for the petitioner submits that the petitioner was arrested on 29.08.2022. Challan has already been submitted qua the petitioner on 22.11.2022. The petitioner was subjected to police remand for 8 days and no recovery has been

effected from the petitioner. Divisional Forest Officer, Mansa is the sanctioning authority and he has not been arrested. Petitioner is in judicial custody and is no more required for any further investigation in the case.

[8]. The allegation qua non-existent firms, GST and Mobile Numbers would be tested on the basis of quality of evidence to be brought on record by the parties. Co-accused namely Gurmandeep Singh, Kamaljeet Singh Kamal, Sandhu Singh Dharamsot, Daljit Singh, Binder Singh and Nitin Bansal have already been granted regular bail by this Court vide different orders passed in CRM-M No.41303 of 2022, CRM-M No.41470 of 2022, CRM-M No.34718 of 2022, CRM No.34487 of 2022, CRM-M No.46314 of 2022 and CRM-M No.43041 of 2022 respectively.

[9]. *Per contra*, learned State counsel opposed the bail on the ground that the petitioner has withdrawn the cash amount from the bank and has shown transfer through RTGS in the name of aforesaid private firms, but in fact, those firms have been found to be non-existent firms having fake GST and Mobile Numbers. In fact, no such transfer was made through RTGS in the name of those firms and the petitioner has embezzled huge amount, who had power to purchase the tree guards and execute the said purchase. It was his official duty to verify the validity of the firms from whom the tree guards were purchased, especially when no tender was floated. In fact, the petitioner has created dummy entries on the basis of fake and forged documents to show the purchase and supply of tree

guards from the bogus partnership firms, which do not exist in actual and also do not reflect in the records of GST/Taxation Department. Learned State counsel has referred the misconduct of the petitioner with reference to the material collected by the Investigating Agency in the form of Annexures R-1 to R-6 attached with the status report dated 05.12.2022 and also with reference to Annexures P-11 and P-12 attached with the application for placing on record the statement of Account No.909010045203306 for a period commencing from 18.11.2020 to 31.10.2021 and for the period 01.11.2021 to 31.03.2022.

[10]. Having considered the rival submissions made by the learned counsel for the parties, I find that the petitioner was subjected to police remand for 8 days, but no recovery has been effected from the petitioner. Petitioner is in custody since 29.08.2022. Petitioner was nominated on 29.08.2022 during investigation. Now the petitioner is in judicial custody as the challan has already been submitted qua him on 22.11.2022.

[11]. For the reasons recorded in the order passed in the cases of co-accused, I deem it appropriate to grant regular bail to the petitioner on parity after filing of the challan without meaning anything on merits of the case.

[12]. In view of above, this petition is allowed. The petitioner is directed to be released on regular bail subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

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

19.12.2022
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No