

**115+201 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of Decision: 12th January, 2022

1. **CRM-699-2022 in/and
CRM-M-47842-2019 (O&M)**

Rakesh Kumar Chhabra

... Petitioner

Versus

State of Punjab

... Respondent

2. **CRM-M -43590-2019 (O&M)**

Parmil Kumar Kalani

... Petitioner

Versus

State of Punjab

... Respondent

3. **CRM-M-45404-2019**

Naresh Chhabra

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. P.S. Ahluwalia, Advocate,
Mr. Sandeep Khunger, Advocate and
Mr. Jagat Vir, Advocate for the petitioners.

Mr. Sandeep Kumar, DAG, Punjab for the respondent-State.
Mr. Vishal Sharma, Advocate for the complainant.

AVNEESH JHINGAN , J.(Oral)

Due to COVID-19 situation, the Court is convened through
video conference.

CRM-699-2022

This is an application filed for amendment of petition so as to
add Section 201 and 379 of the IPC in the head note and prayer clause in

The State counsel has no objection if the same is allowed.

The application is allowed.

These three petitions Section 438 Cr.P.C. were filed seeking anticipatory bail in FIR No. 0194, dated 11.09.2019, under Sections 420/ 465/ 467/ 468/ 471/ 120-B IPC and Section 13(2) of the Prevention of Corruption Act, 1988, registered at Police Station City 1, Abohar, District Fazilka.

The petitioners were granted interim anticipatory bail by this Court. For convenience order dated 15th October, 2019 passed in CRM-M-43590-2019 is reproduced below:-

“ Prayer is for grant of anticipatory bail in case FIR No.0194 dated 11.09.2019 under Sections 420,465,467,468,471,120-B IPC and Section 13 (2) of the Prevention of Corruption Act, 1988.

The allegations in the FIR are that land measuring 3.5 kanals in Dharam Nagri, which had been earmarked for the park of the children, was not developed by the Municipal Council, Abohar and the then President of the Municipal Council, Abohar by misusing his official position and in order to give wrongful gain to the petitioner got resolution No.41 dated 25.05.2015 passed for auction of the said land. The land was auctioned to the petitioner at a throw away price of Rs.56,00,000/-.

Learned counsel for the petitioner admits the fact that the Municipal Councillor-Rakesh Chhabra is real brother of the petitioner. He contends that pursuant to resolution No.41 dated 25.05.2015, a public notice for auction of land measuring 1609 sq. yds. situated on the back side of Telephone Exchanage Quarters, Abohar was issued. The reserve price qua the bid of the plot was fixed as Rs.28,96,200/- and it was mentioned that the auction would start at Rs.39.75 lacs. Forty four bids were received at the time of start of auction and ultimately the petitioner was declared successful bidder for Rs.56.40 lacs. As per the conditions, 25% of the auction amount was deposited by the

petitioner at the fall of the hammer on 27.6.2016 itself. The auction was approved by the house of Municipal Council, Abohar vide resolution No.43 dated 24.10.2016. It was further approved by the Director, Local Government, Punjab vide order dated 02.12.2016. The petitioner paid the entire sale consideration and thereafter was granted No Due Certificate by the Municipal Council, Abohar on 07.09.2016. Subsequently, a writ petition bearing CWP No.21608 of 2016 titled as 'Saroj Rani and Others vs. State of Punjab' was filed by few residents of Dharam Nagri, which was disposed of vide order dated 19.10.2016 passed by this Court granting liberty to the petitioners to approach the Deputy Commissioner as per Section 232 of the Punjab Municipal Council Act, 1911.

Thereafter, the Deputy Commissioner conducted inquiry and passed order dated 11.4.2017 suspending resolution No.41 dated 25.5.2015. The petitioner submitted an application for refund of the amount deposited by him and vide resolution No.14 dated 12.7.2017 of the Municipal Council, the petitioner was refunded an amount of Rs.40 lacs.

Learned counsel for the petitioner contends that the petitioner had participated in the open auction and only on being declared as successful bidder, the land was sold to him. If there is any irregularity found in passing of the Resolution, the petitioner cannot be held liable merely because he happens to be brother of one of the Municipal Councillors. No wrongdoing can be imputed to the petitioner.

Notice of motion for 18.11.2019.

Meanwhile, in the event of arrest, the petitioner shall be released on interim anticipatory bail to the satisfaction of the Arresting/investigating Officer, subject to the conditions provided under Section 438 (2) Cr.P.C. The petitioner is also directed to join the investigation and cooperate with the Investigating Agency, as and when required.”

The interim order continued thereafter and the petitioners were asked to join as and when called for.

Learned State counsel on instructions submits that petitioners joined investigation as and when called, no recovery was affected hence, Section 379 and 201 were added vide DDR No. 44. The challan is being prepared and would be filed in due course.

Mr. V.S. Appears for the complainant submits opposes the confirmation of the interim bail.

In view of the statement made by learned State counsel that challan is being prepared and custody of the petitioners is not required interim order are made absolute.

However, it is made clear that petitioners would continue to join investigation if called.

State would be at liberty to avail remedies in accordance with law if there is change in circumstances.

Disposed of accordingly.

Photocopy of this order be placed on the files of connected cases.

12th January, 2022
Parveen Sharma

(AVNEESH JHINGAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No