

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

CRM-M-479-2023 (O&M)

Date of Decision:- 30.1.2023

Ranbir Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Sartej Singh Narula, Advocate for the petitioner.

Mr. Siddharth Attri, AAG, Punjab
assisted by Inspector Satavtar Singh.

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of regular bail in a case registered vide FIR No. 21 dated 14.11.2022 under Sections 13(1)(A) read with Section 13(2) of the Prevention of Corruption Act, 1988 and Sections 409, 420/120-B IPC at Police Station Vigilance Bureau, Range Jalandhar District Jalandhar (Punjab).
2. The facts, in nutshell, are that in the year 2016 the residents of Sagar Gate, Banga represented to the then Chief Minister, Punjab that they have two acres of vacant land suitable for developing parks/stadium. The said matter was considered and an estimate of Rs.92,28,000/- was prepared for construction of mini-stadium which was sent to Technical Adviser, Local Government, Punjab for vetting. Upon vetting, the estimate was reduced to

Rs. 87,45,000/-. The Technical Adviser to the then Chief Minister, Punjab, while vetting the estimate imposed the following two conditions :-

- “(a) The estimate has not been technically sanctioned by the competent authority.
- (b) Before starting the construction work, the soil bearing capacity of the land may be got tested from National Accreditation Board for testing and celebration laboratory (NABL Laboratory), Engineering College under intimation to us (Annexure R-1).”

3. A tender for the job work was floated. Only one offer was received from Rakhwinder Kumar, Contractor, who had offered to undertake the proposed construction/development work at 0.13% less than the approved cost of Rs.87,45,000/-. Upon negotiation, the same was reduced to 0.20%. Pursuant to allotment of work/contract to Rakhwinder Kumar, construction commenced for the same. An amount of Rs. 39.74 lacs was released to aforesaid Rakhwinder Singh.
4. However, subsequently, one Manish Bhardwaj made a complaint that ‘high level corruption’ has been committed in the construction of mini-stadium at Banga. Upon receipt of said complaint, a vigilance probe was initiated by the Vigilance Bureau and the technical team and some other officials of the government department inspected the mini-stadium in the presence of Vijay Kumar, J.E. Municipal Council, Banga, Contractor Rakhwinder Kumar and Manish Bhardwaj. Samples of cement plaster, bricks, cement mortar and cement concrete were collected from various parts of said stadium and were got analyzed. As per the analysis report received from the Irrigation and Power Research Institution, Amritsar, the cement used for plastering was

found to be less by 14% from the prescribed specification. The cement used in cement mortar was found to be less by 12% from the specified quantity and the cement used in cement concrete was found to be less by 21.89% from the specified standards.

5. It is further the case of prosecution that while the estimate for the work of Rs. 87.45 lacs was approved technically by the Municipal Engineer whereas the same was required to be approved by Supervisory Engineer in accordance with the instructions of Government of Punjab issued vide memo bearing No. 5/2028/2013-4 LG 4/117640/1-7 dated 31.10.2013. It is further the case of prosecution that the allotment of tender was not even got vetted from the Chief Engineer, as is required and was approved by the Executive Officer, Assistant Municipal Engineer and the Junior Engineer at their own level. It is also alleged that since the site was a low lying area and had previously been a pond, the load bearing capacity of the land was required to be checked before undertaking construction and to design and cast the foundations accordingly as well as to construct requisite retaining wall etc. to ensure the structure stability and strength but the needful was not done and that the Contractor and the officials were conniving and payments had been released without checking the quality of work and thus, intentionally caused loss to the Municipal Council funds.
6. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and had no role to play either in the matter pertaining to allotment of work/contract in favour of the Contractor Rakhwinder Kumar and even had no role in the matter of supervision of the construction work. It has been submitted that in case the Contractor Rakhwinder Kumar had used sub-standard material or had not

executed the construction work in accordance with the prescribed standards, it is the Contractor, who is to be blamed. It has been submitted that the petitioner had been transferred from Nagar Council, Banga on 30.6.2017 and stood relieved w.e.f. 4.7.2017 which was before the construction of 'sitting steps' in which various shortcomings have been found. It has further been submitted that whatever payments that have been made during his tenure had been made in accordance with the prescribed rules and regulations and guidelines. The learned counsel has submitted that it is only on account of party faction that the FIR came to be lodged after six years of the construction.

7. Opposing the petition, the learned State counsel has submitted that the petitioner cannot feign ignorance about the sub-standard quality of the work and the construction material inasmuch as he, being posted as Assistant Municipal Engineer, was duty bound to occasionally visit the site and to check the quality of construction and the construction material being used but apparently he was conniving with the Contractor and did not highlight the poor construction, being undertaken at the spot. It has further been submitted that the petitioner had a pivotal role in release of payments inasmuch as he never chose to verify the measurement books put up to him by co-accused Vijay Kumar, J.E. and as a result of which the payment of Rs.39.74 lacs came to be released in favour of the Contractor, though he was not entitled to the same on account of the poor quality of work. The learned State counsel has, however, informed that the petitioner, as on date, has been behind bars since the last about 2 ½ months and is not stated to be involved in any other case.

8. This Court has considered the rival submissions.
9. The petitioner, who was posted as Municipal Executive Engineer certainly had a responsibility to ensure that the construction work is undertaken and executed properly and he would also have a supervisory role, though it was mainly the J.E. who would be expected to be visiting the site more often. The petitioner cannot absolutely feign ignorance about the sub-standard work being executed at the spot. He was expected to cross-check the reports put up to him by his subordinates i.e. Junior Engineer as regards the quality and also as regards the quantity. He was supposed to verify the entries recorded in the measurement book, which were put up to him by the Junior Engineer. Though, the petitioner is stated to have been transferred on 30.6.2017 but some work had been undertaken during his tenure and some payments had also been released for which he would be responsible.
10. Though, the complicity of the petitioner to some extent is *prima facie* evident, however, this Court cannot lose sight of the fact that the petitioner is in judicial custody and has been behind bars since the last about 2½ months. Conclusion of trial is likely to consume time. In these circumstances, further detention of the petitioner, who otherwise is not stated to be involved in any other case, will not serve any useful purpose.
11. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

30.1.2023

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No