

In The High Court for the States of Punjab and Haryana
At Chandigarh

(I)

CRM-M-9003-2023 (O&M)
Date of Decision:- 25.4.2023

Shashank Garg

... Petitioner

Versus

State of Haryana

... Respondent

(II)

CRM-M-13835-2023 (O&M)

Rajeev Jain

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gaurav Chopra, Senior Advocate with
Mr. Alok Mittal, Advocate, for the petitioner
in CRM-M-9003-2023.

Ms. Mehak Sawhney and Mr. Akash Yadav, Advocates,
for the petitioner in CRM-M-13835-2023.

Ms. Geeta Sharma, DAG, Haryana.

FIR NO.	DATE	POLICE STATION	OFFENCES
20	30.8.2022	State Vigilance Bureau, District Ambala	218, 409, 420, 120-B, 180 IPC and Sections 13(1) (d), 13(1)(c) of Prevention of Corruption Act, 1988

GURVINDER SINGH GILL, J. (Oral)

1. This order shall dispose of the above mentioned two petitions wherein petitioners Shashank Garg and Rajeev Jain, seek grant of regular bail in a case arising out of above mentioned FIR.
2. The FIR was lodged pursuant to receipt of a complaint made by Protection Front (Registered) India to the Director General State Vigilance Bureau, Panchkula, Haryana wherein various irregularities and the poor quality of the work pertaining to construction of godowns under the supervision of the officers/officials of HAFED, Kurukshetra was highlighted. The alleged irregularities in respect of the sub-standard work having been undertaken were got examined. The technical opinion assessment report was given by Shri Suresh Pal Saini, Executive Engineer, Technical Branch, State Vigilance Bureau, Haryana, Panchkula along to the Director General, SVB, who further with his comments submitted to the Addl. Chief Secretary to Government Haryana, Vigilance Department, Chandigarh vide letter no. 15181/1-2/SVB (H) dated 23.10.2018. The work of construction of 26380, MT capacity Godowns with B.I. work, boundary wall etc. at Bhor Saidan, District Kurukshetra was allotted to M/s. Garg & Co. Jind vide letter no. Hafed /SB/ PA/83373-85 dated 05.06.2015. A special checking of the said work was done by the Suresh Saini, the then Executive Engineer, State Vigilance Bureau, Haryana after visit on 22.08.2016 and after receipt of sample test reports from FSL, Madhuban. The report was originally submitted on 24.09.2018 to the Director General, State Vigilance Bureau, Haryana. After its approval, letter was sent to the Addl. Chief

Secretary to Government Haryana, Vigilance Department, Chandigarh vide memo no.15181 dated 23.10.2018 with the recommendations to initiate departmental action/criminal action and against the defaulting officers/officials and also recovery from the contractual agency. On the presentation of HAFED, Addl. Chief Secretary to Government Haryana, Vigilance Department has issued directions Director General, State Vigilance Department Haryana vide memo no.65/39/2018-5 (vig-1 dated 25.04.2019 for retesting of eligible samples. In compliance of these directions out of total 15 No set of samples taken, 6 No eligible samples for testing were sent to FSL, Madhuband and test results of these re-tested samples were received from FSL, Madhuban vide memo no.FSL (H/19/Phy-3649) dated 07.11.2019 and accordingly the modified technical opinion was submitted by Suresh Pal Saini, the then Executive Engineer, SVB, Haryana on 03.02.2020 and it was further sent to the Chief Secretary to Government Haryana, Vigilance Department, Chandigarh vide Bureau letter no.3643 dated 17.03.2020. On the basis of modified technical opinion submitted for the special checking for above mentioned work, the amount of Rs.2,21,26,503/- was recommended to be recovered from the contractual agency along with the departmental action/criminal action against the defaulting officers/officials. Thereafter, Director vide letter no. 15181 dated 23.10.2018, sent a letter to Dy. Chief Secretary, for recovery and directed to register a case against A.P. Bakshi, SI, Rajeev Jain, XEN, PWD, Sumit SDE, Vibhore Nagpal JE Rajesh Sirohi JE, Rajbir Auditor, Prem SO government officer/official and M/s. Shashank

Garg FIR under Section 218, 409, 420, 120-B IPC and Section 13(1)C and DPC Act. An amount of Rs.2,22 Crore was recovered from the contractor. On the basis of this complaint, case FIR under Section 218, 409, 420, 120-B, 180 IPC & Sections 13 (i) (c) and Section 13(1)(c) P.C. Act, 1988 was registered.

3. Learned counsel representing petitioner Shashank Garg has submitted that it is a matter which is civil in nature, but has been given a criminal colour. It has been submitted that in case any deficiencies are found in execution of the construction work undertaken by a private contractor, the department concerned has its remedies for recovering the amount and as a matter of fact an amount of Rs.2.22 crores has already been recovered from the petitioner.
4. Learned counsel representing petitioner-Rajeev Jain has submitted that vague allegations have been levelled in the FIR against several officials of HAFED and that no specific role is attributed to him. It has further been submitted that since challan already stands presented, further detention of the petitioner will not serve any useful purpose.
5. Opposing the petitions, learned State counsel has submitted that from the investigation conducted till date, the complicity of the petitioners is clearly evident and having regard to colossal amount involved, no case for grant of bail is made out. Learned State counsel has however, informed that challan already stands presented and that the charges are yet to be framed and as many as 26 PWs have been cited.

It has also been informed that the petitioners have been behind bars since the last about 3 months.

6. This Court has considered the rival submissions.
7. It is no doubt correct that serious allegations have been levelled against the petitioners pertaining to misappropriation of huge amount of crores of rupees. However, this Court finds that the petitioners have been behind bars since the last about 3 months and investigation already stands completed and challan has been presented. The trial is yet to commence as charges have not been framed so far and as many as 26 PWs have been cited. In these circumstances conclusion of trial is likely to consume time. As such, further detention of the petitioners will not serve any useful purpose. Both the petitions, as such, are accepted and the petitioners are ordered to be released on bail subject to their furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
8. A photocopy of this order be placed on the file of each connected case.

25.4.2023

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No