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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No.15990 of 2023 in/and
CRM-M No.15025 of 2023 (O&M)
Date of Decision: 17.05.2023

SADHU SINGH DHARAMSOT ......Petitioner
Vs
STATE OF PUNJAB ....Respondent

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

Present: Mr. A.P.S. Deol, Senior Advocate with
Mr. H.S. Deol, Advocate and
Mr. Vishal Rattan Lamba, Advocate
for the petitioner.

Mr. J.S. Mehndiratta, Addl. A.G., Punjab.

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RAJ MOHAN SINGH, J.

[1]. The petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.06 dated 06.02.2023, registered under Section 13(1)(b) read with Section 13(2) of the P.C. Act, 2018 at Police Station Vigilance Bureau, FS-1, Punjab at SAS Nagar.

[2]. The FIR in question has been registered at the instance of complainant-Daljit Singh Rama, PPS, S.S.P. Vigilance Bureau, Rupnagar Range, SAS Nagar (Mohali) with the allegations that while conducting enquiry No.01 dated 05.08.2022 against the petitioner (former Forest Minister,

Punjab) regarding disproportionate assets beyond his income for the check period from 01.03.2016 to 31.03.2022, total amount of Rs.2,37,12,596.48 was found to be the income of the petitioner and total expenditure of Rs.8,76,30,888.87 was found. During this check period, the expenditure of excess amount of Rs.6,39,18,292.39 was found which comes to 269% of his income. The petitioner being a public servant has committed the offence under Section 13(1)(B) read with Section 13(2) of the Prevention of Corruption Act, 1988 as amended by P.C. (Amendment) Act, 2018.

[3]. Learned Senior counsel for the petitioner submitted that earlier FIR No.7 dated 06.06.2022 was registered against the petitioner under Sections 7, 7-A, 13(1)(a)(2) of the P.C. Act, 1988 (Amendment Act), 2018 and Section 120-B IPC at Police Station Vigilance Bureau, Flying Squad-1, District SAS Nagar (Mohali). In the said FIR, the petitioner was granted regular bail by this Court vide order dated 05.09.2022 passed in CRM-M No.34718 of 2022. In respect of Vigilance Enquiry No.1 dated 05.08.2022, the petitioner was served with a notice on the same day when he was allowed regular bail by this Court. The petitioner has been implicated under the same sections of Prevention of Corruption Act and the allegations of the present FIR could have been investigated in the previous case bearing

FIR No.7 dated 06.06.2022 under Sections 7, 7-A, 13(1)(a)(2) of the P.C. Act, 1988 (Amendment Act), 2018 and Section 120-B IPC.

[4]. Learned Senior counsel for the petitioner further submitted that the present FIR has been registered on account of that during check period from 01.03.2016 to 31.03.2022, income of the petitioner was Rs.2,37,12,596.48 and expenditure of the family was Rs.8,76,30,888.87, therefore, the petitioner during the aforesaid check period has spent excess amount of Rs.6,39,18,292.39. The Vigilance Department has identified total seven properties. The details of same are given as under:-

Sr. No.	Nature of Property
1	One flat, GH-4, Sector 8, Eco City, Mullanpur (Legislature Cooperative House Building Society).
2	Plot No.3026, Sector 88, Mohali (500 Sq. Yards)
3	Plot No.27 Sector 80, Mohali (500 Sq. Yards)
4	Plot No.2023 Sector 88, Mohali (500 Sq. Yards)
5	One residential house 83x8 Annia Road, Amloh, Distt. Fatehgarh Sahib (the expenditure of Rs.1,68,67,728/- on the construction of the said house)
6	Agricultural land measuring 2 Bigha in village Rohta, Nabha.
7	Agricultural land measuring 2 Kanal 10 Marla in village Beer Amloh as per Jamabandi for the year 2016-17

[5]. Learned Senior counsel for the petitioner further submitted that property No.1 is purchased out of the salary and

earnings of the petitioner as he remained MLA for five times. The details are duly reflected in the Bank account maintained in the State Bank of India, Secretariat Branch, Sector-1, Chandigarh. The aforesaid flat was allotted to the petitioner being MLA by Legislature Cooperative House Building Society for a total consideration of Rs.1,15,00,000/-. The amount of Rs.44 lakhs was got financed from the Bank. Some of the installments are due to be paid in respect of the aforesaid flat. An amount of Rs.23,07,388/- has been paid from the loan account and rest of the amount has been generated out of personal savings. The market value of the flat has been reflected to be Rs.1,62,64,213/- in the affidavit regarding property filed by the petitioner at the time of filing nomination papers for the Assembly Election, 2022, thus showing increase of more than Rs.50 lakhs from the initial allotment cost. The loan of Rs.44 lakhs was required to be assessed to the income of the petitioner.

[6]. Learned Senior counsel further submitted that the petitioner has also made his disclosure before the Vigilance Bureau, Rupnangar Range, SAS Nagar (Mohali) in respect of reply to letter No.56/V.B./Inspector Range dated 05.09.2022. In the aforesaid information, the petitioner has disclosed that residential house at Annian Road, Amloh was inherited from his

father. Secondly, the said residential flat at G.H. 4, Eco City, Mullanpur was purchased from Punjab Legislature Co-operative House Building Society Ltd. for an amount of Rs.1,15,00,000/-. The petitioner has also disclosed the other articles in the form of proforma to the value of Rs.4,04,000/-. The petitioner has also given details of his bank accounts and cash in hand. The petitioner has also disclosed the factum of availing loan of Rs.44 lakhs from the Canara Bank. The aforesaid disclosure was made on 22.09.2022. The petitioner has also made statement of his immovable properties on a proforma Statement No.1 disclosing that residential house at Annian Road is inherited by him from his father and secondly the flat in question is purchased from the Punjab Legislature Co-operative House Building Society Ltd. from his salary and loan for a consideration of Rs.1,15,00,000/-, possession of which has not been delivered so far and some of the installments are still pending.

[7]. Learned Senior counsel further submitted that the petitioner has also disclosed in the statement before the Vigilance Bureau in respect of ornaments and jewellery acquired by way of inheritance from the parents and in-laws and purchase of Toyota Innova Car for a price of Rs.7,50,000/- and also purchase of .32 bore pistol for an amount of Rs.50,000/-. The petitioner has submitted details of his total income from all

sources showing his salary as MLA to the tune of Rs.1,30,18,714.00, repayment of amount of Rs.31,63,000.00, secured loan of Rs.44,00,000.00, unsecured loan of Rs.10,00,000.00 from Icheman Singh, Rs.3,00,000.00 from Sangat Ram, Rs.5,00,000.00 from Kuldeep Singh and Rs.5,50,000.00 from Gurpreet Singh. In this way, total income from all sources was shown to be Rs.2,29,31,714.00 for the period 01.04.2015 to 31.02.2022. The bifurcation of the amount has also been shown i.e. towards car, PPF, Harpeet Singh, Flat, Bank SBI, Misc. Payments (Cash), Loan repayment, Wood and other deductions/expenses and the tally from the aforesaid heads also came at par with the total income from all sources i.e. Rs.2,29,31,714.00.

[8]. Learned Senior counsel for the petitioner further submitted that the Vigilance Bureau has not added the necessary component while assessing the total income in the income chart i.e. unsecured loan disclosed by the petitioner in the reply dated 22.09.2022 i.e. Rs.23,50,000/-. Income from other sources disclosed in the Income Tax Returns during 2016-2017 Rs.2,87,262/-, during 2017-2018 Rs.2,95,427/-, during 2018-2019 Rs.2,75,164/-, during 2019-2020 Rs.1,83,268/-, during 2020-2021 Rs.53,506/- and for the year 2021-2022, the return is yet to be filed. In this way, an amount of Rs.10,94,627/-

has not been added which has already been disclosed in the Income Tax Returns. The total income came to be Rs.1,53,92,825/- (1,19,48,198/- +23,50,000/- + 10,94,627/-). Learned Senior counsel further submitted that the details of the expenditure have been wrongly added in excess. Infact, the actual expenditure is to the tune of Rs.1,57,30,114.03 which is in consonance with the income as assessed on record.

[9]. Learned Senior counsel for the petitioner further submitted that as regards the property at Sr.No.2, the same relates to LOI of plot measuring 500 Sq. yards in land pooling scheme in Sector 88 (GMADA) for a sum of Rs.10 lakhs in the name of Gurpreet Singh son of the petitioner vide sale agreement dated 08.11.2019. LOI of the said plot was being transferred as the property was yet to be allotted by the GMADA. It being at initial stage, the price of Rs.10 lakhs as final consideration was as per the market rate in the year 2019 and the same cannot be said to be under valued. Two installments of Rs.5,02,000/- were paid to the GMADA by son of the petitioner from his account as this amount was pending towards GMADA by the earlier purchaser of the plot namely Daljit Kaur. Besides this an amount of Rs.3,76,000/- was paid by Gurpreet Singh to the GMADA as processing fee and transfer fee. Another amount of Rs.17,75,000/- was paid to the GMADA on

05.04.2022 being park facing plot, therefore, total sum of Rs,41,55,000/- has been made through bank transfer and cheque. The possession has not been delivered. It is a case of only selling LOI. Gurpreet Singh is an Income Tax Assesee. As per his income tax assessment, an amount of Rs.16,52,940/- is shown to be his agricultural income. This was the income as per Income Tax Return. No one has challenged the aforesaid income nor the Department has issued any notice to Gurpreet Singh so far.

[10]. As regards property at Sr. No.3, learned Senior counsel for the petitioner submitted that the same was purchased by the wife of the petitioner from Satnam Singh for a consideration of Rs.20 lakhs in the year 2021. Since the balance installments were due to the GMADA and possession was not delivered to the allottee, therefore, one installment of Rs.4,51,800/- was paid by the wife of the petitioner from her account in favour of the GMADA. Thereafter the said LOI transferred to Raj Kumar son of Bhana Ram for an amount of Rs.25,20,000/- on 14.01.2022. The agreement to sell regarding the sale was executed on 14.01.2022 which was duly witnessed by Mahesh Kumar and Amandeep. A sum of Rs.20 lakhs was generated by the wife of petitioner from her personal income and, therefore, the said amount cannot be added to the assets of her husband

(petitioner). The LOI was sold after few months and thereafter the amount cannot be added to the assets of the family rather the sale consideration of Rs.25,20,000/- should be added to the income, if property of the spouse is to be added in the assets beyond known sources of income.

[11]. As regards property No.4, learned Senior counsel submitted that the same pertains to LOI of residential plot (GMADA) under land pooling scheme in Sector 88, Mohali. The possession of the plot is yet to be given. It was purchased by Harpreet Singh. The petitioner had transferred Rs.20 lakhs from his account in the account of Harpreet Singh on 15.11.2018 vide cheque Nos.488227 and 488228 in a sum of Rs.10 lakh each. Rest of the money was managed by Harpreet Singh himself. The sale agreement dated 27.11.2018 was executed for consideratio of Rs.25 lakhs as full and final payment. The entire payment was made by Harpreet Singh. The amount was paid to Raj Kumar. Since there was no minimum lower price fixed by the GMADA for transfer of LOI, therefore, it cannot be said that the same was under valued.

[12]. Learned Senior counsel further submitted that the property at Sr. No.8 is the residential house which came to the petitioner by way of inheritance about 50 years back and does

not fall within the check period. The value has been done at higher side by the Vigilance. The value of the house has been reflected as Rs.40,86,276/- in the affidavit filed by the petitioner at the time of filing nomination papers for Assembly Election in the year 2022. The valuation of Rs.1,68,67,728/- is on the higher side which is excessive by Rs.1.28 crores as reflected in the nomination papers. Admittedly, the properties mentioned at Sr. No.6 and 7 are not relevant as admitted by the learned State counsel during course of arguments.

[13]. With reference to the aforesaid facts, learned Senior counsel for the petitioner submitted that the petitioner has already brought on record necessary data before the Vigilance Bureau and the allegations are relating to documentary evidence. The challan has already been submitted on 05.05.2023, therefore, the petitioner is no more required for any further investigation in this case.

[14]. Per contra, learned State counsel submitted that the flat No.103-A was purchased for an amount of Rs.1,15,00,000/-. The share certificate has already been issued in favour of the petitioner by the Punjab Legislators Co-operative House Building Society Ltd. On 27.10.2017. The total price as per collector rate was more than the projected value. The Collector

rate as per square yard was Rs.25,000/- in the year 2018-19 and in the year 2021, the collector rate was Rs.43,000/- per square yard. Gurpreet Singh is not an accused for the time being as the investigation is still in progress. The second son of the petitioner namely Harpreet Singh is at large. The GMADA has issued re-allotment letter to Gurpreet Singh on 22.01.2020 in respect of plot No.3026, Park facing, Sector 88, SAS Nagar (Mohali) on the same terms and conditions of the original letter of allotment issued on 08.11.2019. The tentative cost of the plot was Rs.1.25 crores. Since the plot was facing park, therefore, an additional amount of Rs.12,50,000/- has been added to the tentative cost thereby making total tentative cost of the plot to be Rs.1,37,50,000/-, therefore, the amount shown by the petitioner through his son is on the lower side. The processing fee/transfer fee was Rs.3,79,382.58.

[15]. Learned State counsel by referring to the re-allotment letter issued to the wife of the petitioner in respect of plot No.27, Sector 80, SAS Nagar (Mohali) further submitted that collector rate was Rs.43,000/- per square yard and the wife of the petitioner purchased the same for an amount of Rs.20 lakhs and sold it for Rs.25 lakhs, therefore, the same was a *sham* transaction.

[16]. Learned State counsel further submitted that as per the account statement of Gurpreet Singh, an amount to the tune of Rs.5 lakhs was debited in favour of Pargat Singh on 16.12.2019. An amount of Rs.5 lakhs was again debited to Pargat Singh on 15.07.2020. An amount of Rs.8 lakhs was debited in favour of Pargat Singh on 18.11.2020 and an amount of Rs.5 lakhs was debited in favour of Pargat Singh on 18.11.2020, therefore, an amount of Rs.23 lakhs was received by Pargat Singh and the story of issuance of J-Form is nothing but a farce story.

[17]. Learned State counsel further submitted that it has also come on record in the gist of report under Section 173 Cr.P.C. that during investigation, Gurpreet Singh son of the petitioner was joined in the inquiry, who had submitted about his income that he had been doing agriculture after taking 20 acres of land on lease and had also filed Income Tax Returns in respect of income from agricultural pursuits. Pargat Singh has also been joined in the investigation, who stated that he has family relations with the petitioner for the last 40 years. In the year 2019, the petitioner called him and told him that his both sons are not doing anything nor are they filing any Income Tax Returns, therefore, there was a problem in purchasing property in their names, thus he has prepared a lease deed in favour of

Gurpreet Singh in respect of 100 *bighas* of land which is shown to have been given on *Chakota* to Gurpreet Singh @ Rs.10,000/- per bigha. The document was prepared only to prove the income of son of the petitioner namely Gurpreet Singh. Actually the land was not given on lease. Learned State counsel further submitted that during investigation, Rajender Singh was also joined in the investigation, who told that he is running a commission agent shop in the name of M/s Hari Traders. In October, 2020 when Pargat had brought his paddy crop to the market yard, he told that J-Forms of the crop of Pargat be issued in the name of Gurpreet Singh as per wishes of the petitioner. The statements of Pargat Singh and Rajender Singh have been recorded and it has also been found that Gurpreet Singh is not cultivating any land on lease and the issuance of J-Forms is only on account of corrupt practice.

[18]. Learned State counsel further submitted that similarly, Harpreet Singh son of the petitioner was also joined in the Vigilance Inquiry. He had disclosed that he is doing scrap work on commission at Mandi Gobindgarh. But he could not produce any evidence. His statement was recorded during inquiry proceedings only. After registration of the case, Harpreet Singh is still at large. The factum of purchase of plot No.2023 Sector 88 from Raj Kumar has already been discussed in earlier part of

the order.

[19]. Learned State counsel further submitted that on 17.03.2023, Gurminder Singh Gill has produced photocopy of sale agreement in respect of plot No.2023 Sector 88, Mohali which was executed in the name of Raj Kumar. The plot was thereafter transferred by way of full and final sale agreement in favour of Harpreet Singh. It was found that Raj Kumar purchased the plot from Gurminder Singh Gill for a consideration of Rs.60 lakhs and the amount was paid through different entries between the period 26.10.2018 to 21.11.2018. But the said aforesaid plot has been sold to Harpreet Singh on 27.11.2018 by way of LOI for an amount of Rs.25 lakhs on the same day. Thus making a case of disproportionate assets. The investigation of the Vigilance Bureau is on these lines. So far as the petitioner is concerned, the investigation has already been completed and the challan has also been filed on 05.05.2023. The investigation qua sons of the petitioner is still in progress.

[20]. Learned counsel for the both the parties have tried to address arguments on merits.

[21]. At this stage, any consideration made by this Court on merits of the case or based on interpretation of the documents as discussed hereinabove may prejudice the case of any of the

parties. I deem it appropriate not to comment upon the evidentiary value of the documents produced by both the parties during course of arguments, lest it may prejudice the case of either side. The aforesaid documents have been noticed only as per contentions of the parties and in order to form a *prima facie* opinion regarding consideration of bail of the petitioner.

[22]. Learned Senior counsel for the petitioner has asserted that the allegations are based on documents. Both the sons of the petitioner are major and are Income Tax assessee. The allegations against the petitioner are in respect of two plots. One plot is ancestral property of the petitioner and qua second plot he has already given necessary details by way of documentary evidence. The documents produced by both the parties are subject matter of consideration before the trial Court. The information submitted by the Investigating Agency in the report under Section 173(2) Cr.P.C. is also the subject matter of consideration before the trial Court at an appropriate stage.

[23]. At this stage, the challan has already been produced and the petitioner is in custody since 06.02.2023. Custodial interrogation of the petitioner is not at all required. The petitioner is not required for any further investigation. In view of law laid down by the Hon'ble Apex Court in ***Sanjay Chandra vs.***

Central Bureau of Investigation, (2012) 1 SCC 40, even in case of economic offence causing loss to the State Exchequer, the regular bail can be granted after investigation and filing of chargesheet. Refusal to grant bail would be a restriction of personal liberty of an individual particularly when custodial interrogation of the petitioner is not at all required. The petitioner is in judicial custody.

[24]. At this stage without meaning anything on the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

[25]. In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

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

[27]. All pending civil misc. applications are also stand disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

May 17, 2023
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No