

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-31675-2023

Date of decision : 07.08.2023

Dilpreet Singh

... Petitioner

Versus

State of Punjab

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present:- Mr.Pritam Singh Saini, Advocate and
Ms.Vibha Nagar, Advocate
for the petitioner.

Mr.Gaurav Garg Dhuriwala, Addl.A.G. Punjab.

VIKAS BAHL, J.(ORAL)

1. This is the first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.07 dated 06.06.2022 registered under Sections 7, 7A, 13(1)(A)(2) of the Prevention of Corruption Act, 1988 (in short "PC Act") (as amended upto date) and Sections 120-B, 409, 420, 465, 467, 468, 471 IPC at Police Station Vigilance Bureau, Mohali.

Factual background:-

2. Brief facts of the present case are that the above said FIR was registered by Harvinder Pal Singh, Deputy Superintendent of Police, Vigilance Bureau, Unit S.A.S. Nagar on the allegations that during the investigation in pursuance of FIR no.06 dated 02.06.2022 registered under Sections 7, 7A P.C. Act and under Section 120-B IPC at Police Station Vigilance Bureau, Phase 1, Punjab at Mohali, accused Harmohinder Singh

recorded his statement under Section 27 of the Evidence Act to the effect that starting from the year 2017, every bribe that had been paid by said Harmohinder Singh @ Hummy to the senior officers of the Forest Department and political persons and their aides, had been detailed in his diary which was concealed by him in the basement of his residential house and thereafter, the said diary was recovered and from the same, it was prima facie established that for inter alia, felling of Khair trees, for transfer of officers, for issuance of NOC, for purchase of tree guards, for fencing, plantation drive, mining or levelling of hill area in Mohali District, bribes had been paid to various persons. The primary allegation in the FIR was against Sandhu Singh Dharamsot, Minister of Forest Department, who is alleged to have taken Rs.500/- per tree and had also taken money for transfer of D.F.O. to the tune of Rs. 10 to 20 lacs etc.; also for issuance of NOC and with respect to various other aspects. In the said diary, it was also stated that Rs.200/- was paid to the Forest Officer, who, as per the prosecution, is one Guramanpreet Singh. The allegation levelled against the present petitioner was that he was a Forest Guard and in the diary, an amount of Rs.100/- per tree is stated to have been paid to Forest Guards for the purpose of felling of trees in the hilly area of Mohali District. Further allegation against the petitioner was that he, along with the other co-accused, had illegally levelled the area in the hilly areas of the Mohali District. The petitioner had applied for the concession of anticipatory bail which was dismissed by this Court as well as by the Hon'ble Supreme Court and after dismissal of the said anticipatory bail application, the petitioner had surrendered on 26.04.2023 and thereafter supplementary challan against the petitioner has been presented on 21.07.2023 and the

Arguments on behalf the petitioner:-

3. Learned counsel for the petitioner has submitted that the petitioner had himself surrendered on 26.04.2023 and challan against the present petitioner has been presented and the entire case is based on documentary evidence and the petitioner is not involved in any other case and in the supplementary challan against the petitioner, there are 14 witnesses and since the charges have not been framed, no witness has been examined as yet. It is further submitted that in the primary challan, there are 115 witnesses and none have been examined as yet and thus, the trial is likely to take time. It is stated that Sadhu Singh Dharamsot has been granted the concession of regular bail by a coordinate Bench of this Court vide order dated 05.09.2022 passed in CRM-M-34718-2022 and the case of the present petitioner is on a higher footing than that of said Sadhu Singh Dharamsot. It is further stated that even Guramanpreet Singh and Kamaljeet Singh Kamal have been granted the concession of regular bail by a coordinate Bench of this Court vide order dated 27.10.2022 passed in CRM-M-41303-2022 and CRM-M-41470-2022 and the case of the petitioner is on a higher footing than that of the said persons also. Further reference has been made by learned counsel for the petitioner to the order dated 20.02.2023 (Annexure P-5) passed by a coordinate Bench of this court granting regular bail to co-accused Parveen Kumar and Vishal Chauhan. Learned counsel for the petitioner has submitted that the said orders have not been challenged by the State. It is submitted that the petitioner was sent to police remand for two days and since then he has been in judicial custody and no recovery has been effected from the petitioner and the only alleged material which has been collected by the prosecution against the petitioner,

petitioner has not been mentioned and only designation of the post of Forest Guard, Nada Beat has been mentioned. It is submitted that on the ground of parity, the petitioner deserves the concession of regular bail.

Arguments on behalf of the respondent-State:-

4. Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner, along with the co-accused, has been involved in the felling of khair trees and also levelling of the hilly area in the Mohali District and the same has been done in connivance with the other co-accused persons. It is further submitted that Harmohinder Singh @ Hummy, who was the contractor, was arrested in FIR no.06 dated 02.06.2022 registered under Sections 7, 7A, 12 of the P.C. Act and under Section 120-B IPC at Police Station Vigilance Bureau, Phase 1, Punjab at Mohali and thereafter, his statement was recorded in the said FIR under Section 27 of the Evidence Act and the diary in question was recovered on the basis of the statement made and thereafter, the present FIR was registered and as per the entries in the said diary, one of the entries showed that an amount of Rs.100/- was paid to the Forest Guards per tree and since it was the present petitioner who was the Forest Guard at Nabha Beat at the relevant time, thus, the said entry relates to the present petitioner. It is further submitted that said Harmohinder Singh @ Hummy has become approver and thus, has opposed the present petition for regular bail.

Findings:-

5. This Court has heard learned counsel for the parties and perused the paper book.

6. The petitioner had surrendered on 26.04.2023 and the

presented against the petitioner on 21.07.2023. As per the said challan, there are 14 witnesses, none of whom have been examined and in the main challan, there are 115 witnesses and since even the charges have not been framed, thus, the trial is likely to take time. After the arrest of the petitioner, police was granted the custody of the petitioner for two days but no recovery has been effected from the petitioner subsequent to the same. The petitioner is stated to be not involved in any other case. The primary piece of evidence against the petitioner is the diary which has been recovered on the basis of statement of Harmohinder Singh @ Hummy recorded under Section 27 of the Evidence Act in another FIR i.e, FIR no.06 dated 02.06.2022. Even in the said diary, the name of the petitioner has not been specifically mentioned. The allegation against the co-accused Sadhu Singh Dharamsot, Minister of Forest Department, Punjab is with respect to receiving Rs.500/- per tree and against the Divisional Forest Officer namely, Guramanpreet Singh is with respect to receiving Rs.200/- per tree whereas the allegation against the present petitioner is of receiving Rs.100/- per tree. The said Sadhu Singh Dharamsot, against whom the allegations were also made with respect to taking bribe for transfer of officers, issuance of NOC, purchase of tree guards, plantation drive, fencing and mining etc. which allegations have not been levelled against the present petitioner, has been granted the concession of regular bail by a coordinate Bench of this Court vide order dated 05.09.2022 passed in CRM-M-34718-2022 and CRM-M-34487 of 2022. Relevant portion of the said order is reproduced hereinbelow:-

“[9]. Learned Senior Counsel further submitted that the alleged diary recovered on the basis of disclosure statement of Harmohinder Singh @ Hummy in FIR No.6 dated 02.06.2022, does not fall under the definition of "Books of Accounts" as defined under Section 2(13) of the Companies Act.

[10]. Perusal of the diary noting would show that the entries are not incoherent, continuous and systematically maintained by the person, nor was the same maintained regularly during course of business, showing uniform pattern since the year 2018. The random entries with undated noting are not admissible as a relevant fact under Section 34 of the Evidence Act. Learned Senior Counsel referred to para Nos.30 and 33 of Central Bureau of Investigation Vs. V.C. Shukla, 1998(2) RCR (Criminal) 17 in support of his contention.

[11]. Learned Senior Counsel also relied upon Sanjay Chandra Vs. Central Bureau of Investigation, (2012) 1 SCC 40 to contend that in case of economic offences of huge magnitude causing loss to the State Exchequer after investigation and filing of chargesheet, regular bail can be granted to the accused as bail is the Rule and committal to jail is an exception. Refusal to bail is a restriction of personal liberty of an individual, which has been guaranteed under Article 21 of the Constitution of India.

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[17]. Though learned counsel for the parties have tried to argue on merits of the documents, the execution of which is still to be proved, but any observation made by this Court at this stage on merits of those documents, may prejudice the case of either of the parties during trial.

[18]. Admittedly, petitioner Sadhu Singh Dharamsot is in judicial custody and challan has already been submitted qua him. The presence of the petitioner is no more required for any further investigation of the case. The complicity of the petitioner would remain debatable on the basis of quality of evidence to be led by the parties during trial. Such evidence would also be subject to lawful consideration of the trial Court. FSL report qua the diary entries is still awaited. The alleged recovery of the amount and incriminating material from coaccused Kamaljit Singh and Chamkaur Singh in the context of proving complicity of the petitioner would also remain debatable. The probative value of CPU and few pages of diary would also remain debatable and would be tested by the trial Court on legal parameters. Petitioner Sadhu Singh Dharamsot was arrested and remained under police remand, but no recovery could be effected from the petitioner. The disclosure statement of Harmohinder Singh @ Hummy was recorded on 04.06.2022 in FIR No.6 dated 02.06.2022 and present FIR came to be registered thereafter. Evidently, the allegations against Sadhu Singh Dharamsot (petitioner) are based on documentary evidence and the admissibility of those documents would be tested by the trial Court during trial.

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[22]. The allegations against the petitioner is that he is indirect recipient

of bribe. Such an allegation cannot be presumed on its face value and would always remain subject matter of material to be produced before the trial Court during trial...

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[23]. In view of facts and circumstances of the case and without meaning anything on merits of the case, I deem it appropriate to grant regular bail to the petitioners.

[24]. In view of above, both the petitions are allowed. Petitioners are ordered to be released on regular bail subject to their furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate.

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

*(RAJ MOHAN SINGH)
JUDGE”*

7. It is not in dispute that the said order has not been challenged by the State of Punjab before the Hon’ble Supreme Court. Even co-accused Guramanpreet Singh has been granted the concession of regular bail by a coordinate Bench of this Court vide order dated 27.10.2022 passed in CRM-M-41303-2022 and CRM-M-41470-2022 (Annexure P-4). The other accused namely, Parveen Kumar and Vishal Chauhan have also been granted the concession of regular bail by a coordinate Bench of this Court vide order dated 20.02.2023 (Annexure P-5). Even the above mentioned orders have not been challenged by the State of Punjab before the Hon’ble Supreme Court. The entire case is based on documentary evidence and the investigation qua the petitioner is complete and thus, no purpose would be served by keeping the petitioner in further incarceration and the petitioner deserves the concession of regular bail on the ground of parity also.

8. Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned

trial Court/ Duty Magistrate and subject to him not being required in any other case.

9. However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

10. Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

August 07, 2023
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No