IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-33328-2023
Date of decision : 14.07.2023

Sunder Singh ....Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Dr. Pankaj Nanhera, Advocate
for the petitioner.

PANKAJ JAIN, J. (ORAL)

This is second petition under Section 438 Cr.P.C. filed on behalf of the petitioner seeking pre-arrest in FIR No.269, dated 31.12.2022, registered for offences punishable under Sections 420, 467, 468, 471, 120-B & 409 of the Indian Penal Code, 1860 at Police Station Rozka Meo, District Nuh, Haryana.

2. As per the allegations levelled in the FIR it has been alleged as under :-

> "To The S.H.O Police Station Rojka Mev District Nuh. Sir, a information was received that the term of the panchayat secret of Kaliyaka village in district Nuh ended in February 2021 and thereafter the powers of the Gram Panchayat were given to the administrative officers of the Panchayat DepartmentA proposal was made by the administrative officers of the Panchayat Department in Kaliyaka village, keeping in mind the public interest, to fill the road from Mr. Maniram's field in Kaliyaka village to the committee office in Indri with soil and to lay a W.B.Mroad under the MANREGA scheme. The work was carried out by using machines

instead of being done under the MANREGA scheme by the administrative officers of the Panchayat Department, and fake bank accounts of MANREGA workers were opened to withdraw their wages. This has tarnished the image of the state government and also resulted in misuse of government funds. On investigation of the above case, it was found while taking action on the proposal put forward by the administrative officers of Panchayat Department of village Kaliaka, soil filling and W.B.Mwork done under the MAREGA scheme as per the documents. The expenditure shown is of Rs. 3,67,920/ for MANREGA wages and Rs. 5,14,037/- for road construction material and other expenditure making a total expenditure of Rs. 8,81,960/- on this work. As per MANREGA muster roll number 1110, this work has been done by 73 MANREGA workers from 11.10.2021 to 26.10.2021. The wages of MANREGA workers, working according to the above muster roll have been paid directly into their bank accounts. During the spot inspection of this work, some villagers of Kaliyaka village, who were present on the spot, told that this work was done by J.C.B machines and not by by MANREGA workers. During investigation as per the muster roll number 1110 of the above work was got done from 73 MANREGA workers under the MNREGA scheme from dated 11.10.2021 to 26.10.2021. Out of these 73 MNREGA workers, the wages sent to the bank account of 20 MNREGA workers became invalid due to technical reasons. On checking the bank accounts of all MGNREGA workers, it was found that out of these 51 bank accounts are in The Gurugram Central Co-operative Bank, Punhana, 15 bank accounts in Sarva Haryana Gramin Bank, Indri, 1 account in Punjab National Bank Mandkola, 1 account in Bank of Commerce, Nagina, 1 account in Bank of Commerce, Sector-32, Gurugram, 2 accounts in I.D.B.I. bank in Village Syarauli, 1 account in Andhra Bank Sector-69, Gurugram and 1 account in S.B.I. Rojka Meo are opened. During the investigation, name addresses and application forms etc. of the account holders of 51 bank accounts opened in The Gurgaon Central Co-operative Bank Punhana were scrutinised. Out of the above account holders, 6 persons (Bhupendra Singh s/o Mansingh, Pohap Singh s/o Girraj Singh, Mukesh s/o Munshiram, Sanjay s/o Jagbir, Naresh Kumar husband of MANREGA labourer late Smt. Manju, Smt. Santosh Paliwal wife of Kishandatt all residents of village Indri) were joined in the investigation and the documents related to their bank account were shown to them. These persons after observing the bank related. documents, told in their statements that they have neither opened any account in bank in Punhana nor have got made any MANREGA job card till date. During investigation it was found that the banks account of above named persons opened on 11.08.2021 in The Gurugram Central Co-operative Bank Ltd., which was confirmed by a man namely Sajid s/o Aas Mohammad resident of village Jalalpur District Nuh, whose account number 001834001101289 is opened in the same bank. At that time Mohammad Hanif son of Mr. Suleman was posted as cashier and Mr. Mubeen Khan as branch manager. On investigation, it was found that the above work was done by the administrative officers of the Panchayat Department with machines instead of getting it done under the MANREGA scheme and it has been shown in the documents to be done under the MANREGA scheme. The job cards of MANREGA workers shown in this work have been fraudulently made online and fake bank accounts have been opened in their names and MANREGA wages have been withdrawn. So far, on the basis of investigation and documents, Sajid s/o Aas Mohammad resident of village Jalalpur, Mohammad Hanif s/o Mr. Suleman Cashier and Mr. Mubeen Khan branch manager of the Gurugram Central Co-operative Bank, Punhana has been found in opening fake bank accounts and Mr. Sundar Singh, Panchayat Secretary, Village Kaliaka, Mr. Pawan Kumar, Assistant Accountant and Mr. Virendra Singh, the then Block Development and Panchayat Officer, Indri District Nuh, have been found involved in crediting wages to the accounts of fake account holders by showing them under the MANREGA scheme. As per the documents of the above work, daily attendance of all MANREGA workers was filled by Mr. Satish Kumar MANREGA Mate, which

has been verified by Mr. Sundar Singh, Village Secretary, Indri. But on investigation it was found that the muster roll number 1110 has the signature of Mr. Sahi Ram MANREGA Mate but Panchayat Secretary Sundar Singh has refused to verify these signatures, which prima facie appears to be fake. On the basis of MANREGA muster roll number 1110, the attendance of all MANREGA laborers was done online by Mr. Pawan Kumar, Assistant Accountant, Officer of Block Development and Panchayat office and after completing all the formalities wages amount was deposited in the account of MANREGA labourers by Mr. Virender Singh, then BDPO, Indri. On investigation, this work was found to be done with machine by the administrative officers of the Panchayat Department, which has been shown in the documents to be done under the MANREGA scheme. In this work, the job cards of almost all MANREGA workers have been. fraudulently made online in the month of March 2021 and MANREGA wages have been withdrawn by opening fake bank accounts in their names. Based on the investigation and documents examined so far, it has been found that Sajid son of Aas Mohammad, resident of Jalalpur village, Mohammad Hanif son of Shri Suleman, Cashier, and Shri Mubeen Khan, branch manager of the Gurugram Central Co-operative Bank, Punhana were involved in opening fake bank accounts. Sundar Singh, Panchayat Secretary of Kaliyaka village, Pawan Kumar, assistant accountant, and Virendra Singh, former Block Development and Panchayat Officer of Indri District played a role in showing that the work was completed under MANREGA Scheme whereas the work was done done by using the machines. They have committed offences under sections 420/467/468/471/120B of the Indian Penal Code (IPC), and it is expected that a thorough investigation be carried out against them. During the investigation, the involvement of other individuals and officials from the Panchayat department may also come to light.

3. Petitioner approached this Court earlier also by way of CRM-M-2052-2023 which was dismissed vide order dated 11th of May,

2023 observing as under :

> "xxxx
>
> Learned counsel for the petitioner has submitted that in the FIR itself, it has been stated that the petitioner had refused to verify the signature on the muster roll which clearly shows that the petitioner was not involved in the fraudulent acts complained of. Thus, he may be granted the concession of anticipatory bail. The submission is mis-placed and is based on mis-reading of the FIR.
>
> The said document clearly states that the muster roll has been verified by the petitioner, but during the course of investigation, he refused to verify the signature of one Mr. Sahi Ram, MGNREGA Mate. Accordingly, it cannot be said that the petitioner had no role to play. In view of the above, the petition is dismissed being without merit."

4. Today again Dr. Nanhera has tried to argue that the non-verification of the signatures by the petitioner rather should enure benefit in his favour as the same shows his bona fide. This Court is constrained to observe that the argument is misconceived. Whole of the case put-forth by the prosecution relates to alleged embezzlement in MGNREGA funds. The job was not conducted by using mechanized method. Instead of using the same for providing employment and in order to misuse funds, fake accounts and muster rolls were prepared in the name of persons who were never employed for the said job.

5. Keeping in view the aforesaid allegations and the fact that it involves embezzlement of public funds, this Court does not find it to be a fit case to exercise jurisdiction vests under Section 438 Cr.P.C. to grant discretionary relief to the petitioner as the investigation cannot be nip in the

bud at this nascent stage.

6. Consequently, the present petition is dismissed.

July 14, 2023 **(Pankaj Jain)**
Dpr **Judge**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No