

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

CRM-M-43865-2023

Date of Decision:- 04.12.2023

Gurseweak Singh

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Raunaq Singh Aulakh, Advocate for
Mr.Preetinder S. Ahluwalia, Advocate
for the petitioner.

Mr.Ferry Sofat, Addl.A.G. Punjab and
Mr.Luvinder Sofat, DAG, Punjab.

VIKAS BAHL, J. (Oral)

1. This is a first petition filed under Section 438 of the Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.13 dated 16.05.2023 registered under Sections 13(1)(b) read with Section 13(2) of the Prevention of Corruption Act, 1988 and Section 120-B IPC at Police Station Vigilance Bureau, Ferozepur Range, Ferozepur.

2. On 02.09.2023, this Court was pleased to pass the following order:-

“Inter alia contends that in the present case, the petitioner has been involved in the case being a Sarpanch of a village and a prominent face of the opposition party and the petitioner himself has ancestral land holding of 27 acres and is cultivating 103 acres of land, apart from the land which is the ancestral land of the petitioner. It is submitted that the petitioner has sufficient resources to buy the 4 pieces of land which he has purchased vide

registered sale deeds dated 18.12.2017, 30.12.2019, 27.05.2020 and 09.02.2021 which as per the allegations in the FIR are stated to be benami transactions entered into between Kushaldeep Singh Dhillon (Ex.MLA) and the present petitioner. It is stated that neither said Kushaldeep Singh Dhillon nor any of his family members are party to the said sale deeds and there is nothing in the challan to indicate that any sale consideration has been paid by the said Kushaldeep Singh Dhillon or his relatives with respect to the said sale deeds. It is further submitted that the petitioner had sufficient cash in hand to pay the consideration for the said sale deeds and for the said purpose has referred to the summary of gross agriculture receipts and cash ledger with respect to different years which has been placed on record as Annexures P-15 and P-14 respectively. It is stated that the vendors of the said sale deeds have not made any complaint with respect to the transactions in question. It is further submitted that after the execution of the said sale deeds, the petitioner has even mortgaged the said land and thus, is the complete owner of the land. It is stated that the consideration with respect to all the sale deeds has been paid by the petitioner. Specific reference has been made with respect to the sale deed dated 30.12.2019 vide which the land measuring 56 kanals has been purchased from one Sant Parkash regarding which allegations in the report under Section 173 Cr.P.C. (at page 41) was that Rs.56 lacs have been transferred to the account of the seller Sant Parkash by the buyer through RTGS whereas no details of the said transaction are there. It is submitted that a perusal of the entry dated 30.12.2019 in the bank statement, which has been annexed as Annexure P-13, would show that an amount of Rs.20 lacs has been transferred as RTGS by the petitioner in favour of joint bank holders Sant Parkash and Gurdeep Singh, who are owner and attorney holder, respectively, with respect to the land sold. It is further submitted that the authorities should have proceeded under the Prohibition of Benami Property Transactions Act, 1988 in case they were of the opinion that the said transactions were benami transactions. It is stated that State / Investigating Agency has purposely not initiated the proceedings under the Prohibition of Benami Property Transactions Act, 1988 as in the said Act there is an adjudicatory authority and the State authorities / police authority are well aware that the material in

the present case is not enough so as to meet the judicial scrutiny under the said Act. It is further stated that buying benami property is a separate and distinct offence and the same is non cognizable. It is submitted that best case of the prosecution against the present petitioner is that there are certain recitals in the sale deeds qua consideration which are incorrect, which, at best, would constitute an offence under Section 423 IPC and the same is also a non cognizable offence. It is further submitted that even with respect to the sale consideration, the vendors have raised no objection and the said vendors have not even been joined in the proceedings as has been noticed in para 8 of the order dated 02.08.2023 (Annexure P-9) declining grant of anticipatory bail to the petitioner. It is stated that the entire case is based on documentary evidence and the petitioner would fully cooperate with the investigation agency in case interim protection is granted to the petitioner.

Notice of motion for 04.12.2023.

In the meantime, in the event of arrest, the petitioner is ordered to be released on interim bail, subject to his furnishing personal bonds and surety to the satisfaction of Arresting / Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

Grant of interim protection shall not be construed to be an opinion on merits of the case and would not create any equitable consideration in favour of the petitioner at the time of deciding the present petition on merits.

September 02, 2023”

3. Learned counsel for the petitioner has submitted that in pursuance of the above-said order, the petitioner has joined the investigation and even the report under Section 173 Cr.P.C. has been submitted.

4. Learned State counsel, on instructions from Amritpal Singh, DSP, Vigilance Bureau Unit, Faridkot, has submitted that the petitioner has joined the investigation and after submission of challan/report under

Section 173 Cr.P.C., even the charges have been framed.

5. Keeping in view the above said facts and circumstances, more so, the fact that the petitioner has already joined the investigation, the present petition is allowed and the interim order dated 02.09.2023 is made absolute.

6. 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 application.

(VIKAS BAHL)
JUDGE

December 04, 2023.
Davinder Kumar

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No