

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

CRM-M-47004-2023

Date of Decision:- 04.12.2023

Rajwinder 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 19.09.2023, this Court was pleased to pass the following order:-

“Inter alia contends that in the present case, FIR has been registered primarily against the accused Kushaldeep Singh Dhillon and the only allegation against the petitioner and co-accused Gursewak Singh is that they had purchased land vide four sale deeds which, as per the case of the prosecution, are benami transactions. It is submitted that there is no material on record to connect the said Kushaldeep Singh Dhillon with the said sale

deeds as neither him nor his family members are parties to the said sale deeds nor there is anything in the challan submitted against Kushaldeep Singh Dhillon to indicate that any sale consideration has been paid by Kushaldeep Singh Dhillon or his relative with respect to the said sale deeds. It is further submitted that the petitioner belongs to a well placed and respectable family and he, along with his family members, owns 11 acres of agricultural land and a part of the said land was mortgaged for the purpose of crop loan. It is also submitted that taking of crop loan on the said land would show that the petitioner is using the land for agricultural purposes. With respect to the four sale deeds, it is submitted that the best case of the prosecution against the petitioner is that the mode and manner in which the payment was made, as suggested in the sale deeds, is not prima facie correct. It is contended that not even a single statement of any seller has been recorded by the Investigating Agency and none of the sellers have raised any grievance that they have not received the sale consideration money. It is further contended that the entire sale consideration has been paid by the petitioner and his co-accused Gursewak Singh and with respect to sale deed No.586 dated 30.12.2019, the sale consideration was Rs.56,00,000/- and the persons who have purchased the property have purchased through one Gurdeep Singh, who is the General Power of Attorney holder. Reference has been made to page 246 of the paper book to show that an amount of Rs.15,00,000/- has been paid through RTGS from the account of the petitioner maintained in HDFC Bank to said Gurdeep Singh. It is also contended that the co-accused of the petitioner namely, Gursewak Singh, had filed a petition for grant of anticipatory bail bearing No.CRM-M-43865- 2023 and in the said case, notice of motion has been issued and interim protection has been granted in his favour. 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 a non cognizable offence. It is submitted that the 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-8) vide which the petition for anticipatory bail filed by the petitioner was dismissed. 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.

To be heard alongwith CRM-M-43865-2023.

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.

19.09.2023”

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 19.09.2023 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