

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-53713-2022 (O&M)
Date of Decision:-5.1.2023

Tulsi Ram

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. J.S. Bhinder, Advocate and
Mr. Jagmeet Singh Moudgill, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab,
assisted by Inspector Sandeep Kaur.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner, who is a Chairman of Kasturba Gandhi Balika Vidyalaya Hostel, Bareta, seeks grant of anticipatory bail in respect of a case registered vide FIR No.02,dated 17.2.2017, Police Station Vigilance Bureau Bathinda, District Bathinda, under Sections 420, 467, 468, 471, 406, 120-B IPC and Sections 13(1)(D) read with Section 13(2) of Prevention of Corruption Act, 1988.
2. The allegations, in nutshell, are that an amount of Rs.7 lakhs as grant had been received by Kasturba Gandhi Balika Vidyalaya Hostel, Bareta from the Member of Parliament Fund, which was supposed to be used for the purpose of laying sewerage pipes, construction of boundary wall around the hostel and for earth filling work. It is alleged that though the entire amount of Rs.7

lakhs had been withdrawn, but work to the tune of Rs.4,32,053/- only was found to have been done at the spot. In other words, an amount of Rs.2.68 lakhs approximately is alleged to have been embezzled by the management of the school. It is further the case of prosecution that one Shashi Bala, Principal, Government High School (Girl), Bareta was posted as Secretary and Tulsi Ram (petitioner) was posted as Chairman of Kasturba Gandhi Balika Vidyalaya Hostel, Bareta and that it is Shashi Bala, who had acted in connivance with the persons issuing bills and had issued forged bills, ultimately leading to embezzlement of an amount of Rs.2.68 lakhs approximately. It is alleged that the responsibility of supervision of the work to be undertaken was of Jatinder Singh, Junior Engineer and Gurwinder Singh, Junior Engineer. It is further the case of prosecution that entries in the bills in cash-book were made by Parjot Kaur, Accountant and, as such, all the accused in connivance with each other had usurped a substantial amount out of the sanctioned grant of Rs.7 lakhs, which had been sanctioned for laying sewerage pipes, construction of boundary wall around the hostel and for other development work.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case solely on account of the fact that he happened to be Chairman of Kasturba Gandhi Balika Vidyalaya Hostel, Bareta. It has been submitted that though the name of the petitioner figures in the FIR but he was never proceeded against as an accused and it is only after about 5 years of lodging of the FIR that he is now being sought to be proceeded against though there is no evidence worth credence to show that he had joined hands in any manner with the co-accused or had benefited from the embezzled amount. It has further been submitted that in any case the work,

which was supposed to be undertaken for the purpose of utilizing the grant, had already been executed and thus the petitioner cannot be held responsible in any manner in case there is any dispute regarding settlement of accounts.

4. Learned counsel for the petitioner has further submitted that the entire work had been undertaken under the supervision of technical experts i.e. Junior Engineers etc. and due procedure for the purpose of allocating work or for purchases had been adopted and quotations had been called for leaving no scope for any kind of allegation against the petitioner.
5. Opposing the petition, learned State counsel has submitted that in the present case the petitioner was the Chairman-cum-Incharge of Kasturba Gandhi Balika Vidyalaya Hostel, Bareilly and, as such, he cannot feign ignorance about the misconduct which had taken place with regard to the affairs of the said institution and his complicity in the entire embezzlement is also evident from the fact that he is signatory of the cheques vide which the amounts had been released. Learned State counsel has, however, informed that the petitioner otherwise is not involved in any other case.
6. This Court has considered the rival submissions.
7. Having regard to the facts and circumstances of the case and also the quantum of amount alleged to have been embezzled and the fact that the State otherwise is not denying the fact that the work in question had been executed and completed, it goes without saying that the allegations mainly pertain to the excessive rates, which had been charged for executing the work, which is more or less in the nature of a documentary exercise. The question as regards the connivance of the petitioner, in any case, would be debatable given the fact that it is the Junior Engineers and others, who were

supervising the work at the ground level and it is the co-accused Shashi Bala, who is alleged to have forged the bills in question. In these circumstances, this Court is of the opinion that it is a fit case for grant of anticipatory bail. The petition, as such, is accepted and it is ordered that the petitioner, in the event of his arrest, be released on bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

8. It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case.

5.1.2023

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No