

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

CRM-M-57036-2022 (O&M)

Date of Decision: 21.03.2023

Bhagwan Dass

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Amit Kumar Walia, Advocate,
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana,
assisted by DSP Rohtash Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of anticipatory bail in respect of a case registered vide FIR No.372 dated 26.08.2022 at Police Station Agroha, District Hisar, under Sections 406, 409, 420 IPC and Section 13(1)(c)/(2) of the Prevention of Corruption Act.
2. The FIR in question was lodged pursuant to a letter received from the SDO (Civil), Hisar, wherein action was sought to be taken against Bhagwan Dass, BDPO (petitioner). It has been alleged that an amount of Rs.44,39,162/- had been disbursed to 3 villages, namely, Sanrangpur (Rs.8,30,635/-), Nangthala (Rs.25,02,844/-) and Agroha (Rs.11,05,683/-) under 15th Finance Scheme, but no development work was found to have been executed at the spot though payment had been disbursed mainly to one or two agencies. It has been alleged that M/s Laxmi Enterprises, Panipat, which deals in supply of lights, e-rickshaws etc. had been disbursed payments. It has further been alleged that an amount of Rs.2

crores had been disbursed to different firms in Block Agroha during the period from 01.09.2021 to 09.12.2021, whereas the office had accorded sanction for executing 2 works only worth Rs.10 lakhs. Bhagwan Dass, BDPO and the Panchayat Secretaries of the Gram Panchayats could only have disbursed the payments, as it is under their joint signatures that the payments are released.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and as a matter of fact he had been made a scapegoat, whereas no responsibility can be fastened upon him on the basis of facts & circumstances of the case. It has been submitted that the petitioner being BDPO was to act on the basis of the reports only, which had been submitted to him by the Sarpanch or other officers and that he was not expected to physically visit the spot to check the development works or to check the receipt of articles ordered and in case there are any shortage/s, it is the field staff or the Sarpanch concerned, who could be held responsible for the same and as such, the petitioner deserves to be granted concession of anticipatory bail.
4. On the other hand, learned State counsel while opposing the petition has submitted that upon investigation, it has been found that out of the amount of Rs.2 crores, which had been withdrawn from the Government funds, an amount of Rs.44,39,162/- had been paid to M/s Laxmi Enterprises, Panipat on the pretext of development work, but no such development work had been undertaken or found to have been executed. Learned State counsel has submitted that the payments can only be released pursuant to verification by the BDPO and pursuant to joint

signatures of the BDPO and the Panchayat Secretary concerned and as such, his complicity is clearly evident.

5. This Court has considered rival submissions.
6. It is not in dispute that the payments are released under the joint signatures of the Panchayat Secretaries and the BDPO. A proper procedure is prescribed for executing the development works and for release of payments thereafter. The State in its reply has described the said procedure, which reads as follows:

- (i) Proposal of development work was to be presented through Gram Sachiv to BD & PO.
- (ii) BDPO marks the proposed proposal to the concerned department JE/SDO for preparing estimate.
- (iii) Concerned department JE after visiting the site plan prepare the Estimate of the amount which it to be occurred and thereafter submit its report to BDPO for further proceeding.
- (iv) BDPO has the power to approve the budget if the proposed amount does not exceed 2 lakhs rupees, however, amount exceeding to Rs.2 lakhs rupees is to be approved by SDM or higher authorities.
- (v) That thereafter the tender of the work will be released and the work to be done on approved amount by the Government.
- (vi) That the development work quality is to be checked by JE and he fill the M.B.
- (vii) After completing the work the firm will handover the bill to JE and JE have to verify the bill from SDO and thereafter the same is to be verified by BDPO and entry of the same is to be done by the Gram Sachiv in the Stock register and thereafter the same have to be enter into Process register for payment.
- (viii) That thereafter the bill amount to be paid to Firm by BDPO and Gram Sachiv by using joint digital signature.
- (ix) That the amount is paid by from the bank account of Gram Panchayat to concerned Firm.”

7. Having regard to the above referred elaborate procedure involved for the release of payments, it cannot be expected that the BDPO would be

absolutely unaware that no development work had been undertaken. He was expected to conduct some kind of verification to satisfy himself when huge payments are to be released. In the absence of the same, release of payments for huge amounts would clearly indicate the complicity of the petitioner. As such, his custodial interrogation would be required to unearth the finer details of the scam. The petition is sans merit and is hereby dismissed.

21.03.2023

Vimal

**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**