

CRM-M-54616-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54616-2023
Reserved on: 20.11.2023
Pronounced on: 02.12.2023

Mewa Singh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ashish Aggarwal, Sr. Advocate with
Mr. Vipul Aggarwal, Advocate
Mr. Karan Singla, Advocate and
Ms. Pooja Sareen, Advocate for the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
19	03.08.2023	ACB, Ambala, District Anti Corruption Bureau, Haryana	10 of Haryana Development & Regulation of Urban Areas Act 1975 and 12 of Punjab Scheduled Roads & Controlled Areas Restriction of Unregulated Development Act 1963, Sections 120B, 420 IPC 1860 and 13(2), 13(1)(d) of PC Act 1988

1. The petitioner apprehending arrest in the FIR captioned above, had come up before this Court under Section 438 CrPC seeking anticipatory bail by filing the present petition on 30.10.2023.
2. Vide order dated 02.11.2023, the petitioner was granted interim bail which is continuing till date.
3. Facts of the case are being extracted from para 6 of the affidavit dated 17.11.2023, filed by the Deputy Superintendent of Police, which reads as follows:-

“The true facts of the case are that after due approval and proper sanction accorded by the Government/Competent Authority the regular Vigilance enquiry No. 01 dated 31.01.2022 was registered on the basis of source report by the State Vigilance Bureau (now Anti Corruption Bureau), Haryana. The allegations were that property dealers Sh. Surender Kumar Verma son of Sh. Hira Nand Verma, Sh. Vishal Aggrawal son of Vijay Kumar and Sh. Yogesh Kumar son of Anand Swarup in connivance with employees of office of District Town Planner, Ambala, Tehsil and Municipal

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Council Ambala Cantt on basis of fake NDC's got the sale deeds registered on collector rates of year 2012 of plots in an unapproved colony namely Krishna Nagar near Bhagat Ji temple village Babyal (Ambala Cantt) by changing its name to Basanti Mata Colony and without getting the maps sanctioned from the Municipal Council, Ambala Cantt and had illegally constructed houses in unauthorized colony which cause a loss to amount of crores of rupees in revenue to Haryana Government.”

4. Petitioner has following criminal antecedents however counsel for the State submits that all this are arising out of the same incident.

Sr. no.	FIR No.	Dated	Police Station	Sections
1	6	01.08.2018	State Vigilance Bureau (Now Anti Corruption Bureau), Ambala, Range Ambala	420, 467, 468, 471, 120-B IPC and Section 13(1)(d) of PC Act
2	14	28.07.2022	State Vigilance Bureau (Now Anti Corruption Bureau), Ambala, Range Ambala	120-B, 420 IPC and 13(1)(d), 13(2) of PC Act 1988
3	15	28.07.2022	State Vigilance Bureau (Now Anti Corruption Bureau), Ambala, Range Ambala	120-B, 420 IPC and 13(1)(d), 13(2) of PC Act 1988

5. State counsel opposes the bail on the ground that the petitioner is resident of Cananda and with a great difficulty now he came back. On this, Sr. counsel Mr. Ashish Aggarwal, submits that he has instructions to state that the petitioner would not leave India without informing or taking prior permission from the Court and in case, he does so, since his viza is only tourist viza, it shall be permissible for the State to cancel his passport itself which would automatically result in cancellation of viza and on this ground alone, bail should not be cancelled. Moreover the petitioner was on tourist viza and after the registration of present FIR, he came back to join the proceedings.

6. I have heard counsel for the parties and gone through the petition as well as status report. Perusal of the reply points out that offence in question pertains to registration of sale deeds in the year 2012. The petitioner was posted as Naib Tehsildar and once a sale deed is presented before him, he is duty bound to register the same after verifying the land record of seller as well as purchaser.

7. Petitioner’s counsel submits that the petitioner was retired as Naib Tehsildar on 31.03.2016 and the FIR has now been registered after seven years after date of his retirement and the incident pertains to 2012. He further submits that on 08.11.2023 the Director-cum-Special Secretary to Government of Haryana, Urband Local Bodies Department issued Gazette Notification for regularization of plots under the Haryana Management of Civil Amenities and Infrastructure Deficient Municipal Areas (Special

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Provision) Act 2013 for regularization of the plots for residential purposes and for small shops after payment of regularization fee for residential plots @ Rs. 250/-, Rs.200/- and Rs.150/- per square meter of certain areas as well as the development charges. The NOC/NDC is to be issued by the Municipal Corporation. It is further stated that on 19.02.2014. the Haryana Government Urban Local Body Department declared certain areas specified in the Schedule to be the Civic Amenities and Infrastructure Deficient Area. The Government itself issued Notification with the name of the colony, Khasra Number, Killa Number as well as the name of the Corporation, Council and Committee of the deficient area, which are to be approved and the registration can be executed. He further submits that the petitioner is entitled to bail on parity with co-accused Anil Kumar who was granted bail by this Court and also Vikram Dutt and Ram Niwas.

8. Analysis of the petition, response and arguments addressed on behalf of the parties, reveal the following facts. "Mr. Surender Kumar Verma , Vishal Aggarwal and Yogesh Kumar were the property dealers who entered into an agreement, in conspiracy with the employees of District Town Planner Ambala as well as Municipal Council Ambala Cantt. Based on fake NDC's, they got sale deeds registered on Collector rates of the year 2012 of plots of an unapproved colony namely Krishna Nagar, Near Bhagat Ji Temple, Village Babyal (Ambala Cantt), by changing its name to Basanti Mata Colony. Furthermore not only unauthorizedly change the name of Krishna Nagar to Basanti Mata Colony, but also without sanction illegally constructed houses in unauthorized colony which caused a crores of loss to the Government exchequer and the revenue department of Government of Haryana. Further inquiry found involvement of employees of Municipal Corporation Ambala and other government officials and 16 No Due Certificates were issued for unapproved colonies. It is regarding the fact that No Due Certificates have been issued for the area which was not notified by the government in accordance with law. Further No Objection has been issued by the District Town and Planning Office, Ambala, which was statutory requirement under Section 7A of Haryana Development and Regulation of Urban Areas Act 1975 and subsequent notifications issued thereupon. It remains undisputed that Anil Kumar who was Naib Tehsildar and was granted bail and similarly Ram Niwas was also granted bail. A reference in this regard be made to order dated 14.12.2022 passed in CRM-M-36258-2022 and connected cases, vide which, the above said Anil Kumar and Ram Niwas were granted bail."

9. In the entirety of facts and circumstances and considering the fact that the incident pertains to the year 2012 and the petitioner retired on 31.03.2016 and that the financial loss pertains to illegal construction which can always be recovered, there would be no justification for custodial interrogation and pre-trial custody.

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10. Given above, petition is allowed and interim order dated 02.11.2023 is made absolute. Pending applications, if any, stand disposed of.

11. This order is subject to the condition that the petitioner shall surrender his passport within 15 days from today to the investigator and whenever he wants to travel abroad he will seek permission of the investigator to do so and while giving such application for prior permission, would mention the place of residence in the country where he wants to go, phone number on which he shall keep international roaming ON for the entire period and also the date when he would return back to India. It is clarified that in case the petitioner leaves India without aforesaid permission or orders and not return back on time, it would be permissible for the State to apply for cancellation of petitioner's passport and also to ask for withdrawal of the visa.

(ANOOP CHITKARA)
JUDGE

02.12.2023
anju rani

Whether speaking/reasoned:	Yes
Whether reportable:	No.