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

1. CRM-M-54670-2023
Date of decision: 09.11.2023

Rajiv Kumar and another
...Petitioners

Versus

State of Punjab
...Respondent

2. CRM-M-54981-2023
Date of decision: 09.11.2023

Amandeep Singh
...Petitioner

Versus

State of Punjab
...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. A.P.S. Deol, Sr. Advocate with
Mr. S.S. Bhinder, Advocate and
Mr. Dilraj Singh Bhinder, Advocate and
Mr. Himmat Singh Deol, Advocate and
Mr. Vishal Rattan Lamba, Advocate and
Mr. S.S. Sekhon, Advocate for the petitioners.

Mr. Luvinder Sofat, DAG, Punjab and
Mr. Kunal Muthreja, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

1. This order of mine shall dispose of two petitions i.e., CRM-M-
54670-2023 and CRM-M-54981-2023 filed under Section 439 Cr.P.C. for

grant of regular bail to the petitioner(s) in FIR No.21 dated 24.09.2023 registered under Sections 13(1)(A) read with Section 13(2) of the Prevention of Corruption Act, 1988 (as amended by Amendment Act of 2018), Sections 420, 409, 467, 468, 471, 120-B of Indian Penal Code, 1860 and Sections 66(C) and 66(D) of the Information Technology Act, 2000 at Police Station Vigilance Bureau, Bathinda, District Bathinda.

2. CRM-M-54670-2023 has been filed by two petitioners namely Rajiv Kumar and Vikas Arora and CRM-M-54981-2023 has been filed by the petitioner-Amandeep Singh. With the consent of learned counsel for the parties, CRM-M-54670-2023 is being taken up as the lead case and the facts are being noticed from the said case.

3. Brief facts of the case are that FIR No.21 dated 24.09.2023 was registered in pursuance of a complaint bearing No.11 of 2022 made by Sarup Chand Singla, Ex. MLA, Bathinda (Urban) on the allegations that between the years 2018 and 2021 when Manpreet Singh Badal was the Finance Minister of Punjab and had political influence, he hatched a conspiracy for purchasing plots situated near TV Tower at Model Town, Phase-1, Bathinda. It was alleged that in the e-auction held in the year 2018, the map of the site was not uploaded and on account of the same, no bidder had come to take part in the process and in the said year, the reserve price for the plots in question was fixed as Rs.29,900/- per square meter. It is alleged that in the year 2021, the auction was done on the same reserve price and the reason cited for the same was that the auction of the plots was held in the year 2018 and the plots could not be sold at the said price and that in the year 2021, at the time of auction of these plots which had taken place from

17.09.2021 to 27.09.2021, in the map which was uploaded in the e-auction portal, the nature of the land of the plots in questions was shown as commercial instead of residential and the plot numbers were not mentioned and thus, the information regarding plots no.725 (subsequently 725-C) and 726 which were to be purchased by Manpreet Singh Badal, were in the exclusive knowledge of the petitioner-Rajiv Kumar, Vikas Arora, Amandeep Singh and Manpreet Singh Badal and all of them connived together in the auction to get the plots in question transferred in favour of Manpreet Singh Badal at a lower price and the three petitioners had filed the bid through Sanjiv Kumar Advocate and the bids were filed using the office computer of said Sanjiv Kumar, Advocate and all the three persons had filed the bids from one IP Address. It is also alleged that bid of plot No.725 (later 725-C) was finalized in the name of the petitioner-Rajiv Kumar and that of plot No.726, in the name of Vikas Arora and the same was finalized at Rs.30,348.5 per square meter. It is further alleged that Manpreet Singh Badal had executed an agreement to sell on stamp papers of Rs.100/- each with the aforesaid persons on 04.10.2021 for purchasing the said plots and that the stamp papers for the same agreement were purchased on 30.09.2021 whereas the allotment letters were issued in the name of the petitioner-Rajiv Kumar and Vikas Arora on 08.10.2021 by the office of B.D.A., Bathinda and as such, the execution of the agreement to sell was prior in time to the date of allotment dated 08.10.2021 and that 25% of the earnest money to be deposited with PUDA, as advance money, was from the account of Manpreet Singh Badal through the accounts of the allottees. It is alleged in the FIR that auction of plot No.727 of Model Town, Phase-1, Bathinda was

got done under the new regime from 11.04.2022 to 21.04.2022 by fixing reserve price at Rs.28,800/- where several persons had participated and final bid came to Rs.35,280/- per square meter and thus, the neighbouring plot was sold after a period of 6 months at a higher rate of Rs.5000/- per square meter as compared to the plots No.725 (later 725-C) and 726 which were sold in the auction of 2021 at a lesser price causing financial loss of Rs.23,41,150/- in respect of plot No.725-C and Rs.41,80,000/- on account of plot No.725, thus, causing total loss of Rs.65,21,150/-. It is alleged that in the auction that took place in September 2021, the map which was uploaded by the officials of B.D.A. Bathinda was not the correct map and the general public did not come to know about the original location of the plots and it is on account of the same that the plots were sold at a lower price. It is also alleged that on 17.09.2021, Bikramjit Singh Shergill, Additional Chief Administrator and Pankaj Kalia, Superintendent who were also in connivance with the other accused, without informing Balwinder Kaur, Administrative Officer, got uploaded the auction event under her digital signatures for the auction of plots including plot Nos.725-C and 726 of Phase-1, Model Town, Bathinda notwithstanding the fact that Balwinder Kaur had been transferred about 9 months ago. On the basis of the said allegations, FIR was registered against six persons including the three petitioners, Manpreet Singh Badal (Ex.Finance Minister, Punjab), Pankaj Kalia, Superintendent, Estate Officer, GLADA, Ludhiana and Bikramjit Singh Shergill, ADC (Development), District Sri Muktsar Sahib.

4. Petitioner No.1-Rajiv Kumar in CRM-M-54670-2023 was arrested on 24.09.2023 and was produced before the Illaqa Magistrate for

police remand of 4 days and a total of four days police remand of the said petitioner was granted to the Vigilance Bureau. No recovery of any article of incriminating nature was effected from said Rajiv Kumar. Petitioner No.2-Vikas Arora in CRM-M-54670-2023 was arrested on 25.09.2023 from Chintpurni Mandir and with respect to him also, a total of four days police remand was granted to the Vigilance Bureau and no recovery of any article of incriminating nature was effected from said Vikas Arora. The petitioner-Amandeep Singh in CRM-M-54981-2023 was arrested on 24.09.2023 and in his case also, police remand of 4 days was granted to the Vigilance Bureau and after the said police remand, all the three petitioners have been in judicial custody.

5. The petitioners had filed three separate bail application before the trial Court and the trial Court vide three separate orders, rejected the said bail applications. Aggrieved against the same, the three petitioners have filed the present two petitions seeking regular bail.

6. Learned Senior counsel for the petitioners namely Rajiv Kumar and Vikas Arora and learned counsel for the petitioner-Amandeep Singh have jointly submitted that the petitioners are not public servants and have no role to play in the auction of the plots and they are not Government employees, much less, the employees of Bathinda Development Authority (BDA). It is further submitted that as per FIR, the allegations have been levelled to the effect that the conspiracy was initiated in the year 2018, whereas the petitioners were nowhere in the picture in the said year and there is no act alleged on the part of the petitioners in the FIR so as to show that they had anything to do with the auction which had taken place in the

year 2018. It is further submitted that the Government of Punjab had, in the year 2005-06, put on auction certain commercial plots (present residential plots) situated near TV Tower, Phase-I, Bathinda, however, there were no interested buyers for the same and even thereafter, multiple attempts were made to sell the plots but the same remained unsold till the year 2012 and then the aforesaid commercial plots were sought to be converted into residential plots in the year 2012 and in the year 2013, approval regarding the conversion was granted. It is further submitted that at the said time, the party to which co-accused Manpreet Singh Badal belonged was not in power, nor he was MLA and it was the party to which Sarup Chand Singla belonged to which was in power at the relevant time as he was the sitting MLA and also the Parliament Secretary of the ruling party and it was he, who had filed the complaint before the Lok Pal, Punjab on the same set of allegations and the said complaint was dismissed in default. It is also submitted that after the auction in the year 2018, when there were no takers, the auction was again conducted in September, 2021 and the said auction was widely published in the English and Punjabi daily Newspapers and in the E-auction, it was open to the world at large to participate in the same and it was not possible for any person to prevent any bidder from taking part in the auction proceedings. It is further submitted that in the auction which took place in September, 2021, 16 persons participated and out of 10 plots, 7 plots had remained unsold and two plots i.e. Plot No.726 and Plot No.725 (which is now 725-C) were sold at a price which was higher than the reserve price inasmuch as the reserve price was Rs.29,900/- per square meter, whereas the said two plots were sold at the price of Rs.30,348/- per

square meter each. It is argued that after the present auction on 29.03.2022, the unsold plots were sold under the regime of the present Government and regarding the same, advertisement was published in the newspaper on 29.03.2022 and reserve price under the present Government for the said plots was reduced to Rs.28,800/- per square meter from the reserve price of Rs.29,900/- per square meter in the year 2021, when the petitioners had participated in the auction. It is submitted that once, even as per the assessment of the authorities under the present Government the price of the plots including the adjoining plot i.e., plot No.727 was lesser than the reserve price which was fixed by the authorities at the time of the 2021 auction and much lower than the auction price, then the question of there being any undue enrichment or misappropriation of any property in favour of any person would not arise. It is also submitted that the auction took place in September, 2021 when COVID situation was prevailing and at the time of auction in the year 2022, COVID was over and elections had taken place and the new Government had taken over. It is also submitted that the auction of 2021 has not been challenged by any person in any Court of law and even the State has not cancelled the same till date and the present FIR has been registered only on account of political vendetta against Manpreet Singh Badal in which the petitioners have also been roped in only on account of the fact that they had participated in the e-auction which took place in September, 2021. It is contended that the terms and conditions of the e-auction which has been annexed as Annexure P-3 would show that successful bidder was required to pay a sum of Rs.1 lac as the online eligibility fee as per clause 3 and since each of the petitioners wanted to

participate in bidding of both the plots, they paid an amount of Rs.2 lacs each as eligibility fee. Reference has been made to the bank statement of petitioner-Rajiv Kumar which is annexed as Annexure P-4 and also the bank statement of petitioner-Vikas Arora which has been annexed as Annexure P-5 to highlight the entry dated 24.09.2021 showing deduction of an amount of Rs.2 lacs from each of the two accounts in favour of the Bathinda Development Authority, Model Town, Bathinda. It is submitted that the petitioners-Vikas Arora and Rajiv Kumar after being successful bidders in the e-auction held on 29.09.2021, entered into two agreements to sell with Manpreet Singh Badal and had received the premium in accordance with agreement to sell dated 04.10.2022 (Annexure P-2). Further with respect to Rajiv Kumar, the entry in the bank statement dated 04.10.2021 showing that Manpreet Singh Badal had paid an amount of Rs.34,25,542/- on the said date in pursuance of the said agreement to sell, has been highlighted. Further, the payment to the Estate Officer, BDA, Bathinda on 05.10.2021 vide two transactions amounting to Rs.19,03,500/- and Rs.13,22,463/- in Annexure P-4 has also been highlighted. Similarly, for the petitioner-Vikas Arora, the entry in the bank account (Annexure P-5) to the effect that on 04.10.2021, Manpreet Singh Badal had transferred an amount of Rs.68,50,264/- to the account of the said Vikas Arora in pursuance of the agreement dated 04.10.2021 and also the payment made to the Estate Officer, BDA, Bathinda vide two transactions dated 04.10.2021 and 05.10.2021 for an amount of Rs.28,44,562/- and 38,06,000/- have also been highlighted, to show that all the transactions had taken place through Bank transactions and the same are *bona fide* transactions.

7. Learned Senior counsel for the petitioners has further highlighted the terms of the said agreement to sell dated 04.10.2021 to show that even the premium amount of Rs.2,25,000/- and Rs.1,50,000/- earned by the petitioners namely Vikas Arora and Rajiv Kumar in addition to the payment through bank transactions was specifically mentioned in the said agreements and the same was much prior to the initiation of any vigilance enquiry or registration of the present FIR against the petitioners and has also submitted that the said amounts were duly reflected in the Income Tax Returns which have been annexed as Annexures P-9 and P-10. With regard to the petitioner-Amandeep Singh, it is submitted that he had deposited an amount of Rs.2 lacs as eligibility fee, but since he was not successful in the bidding process, thus, no further transactions had been entered into by him.

8. It is further submitted that the advertisement with respect to the auction which took place in September 2021 was published in the local dailies both in English and Punjabi by the Bathinda Development Authority, and a perusal of the said advertisement (Annexure P-6) showed that it was specifically mentioned that the number of commercial sites which were being auctioned were 87 and residential sites were 44 and there was one “chunk site” and in the said advertisement, it was specifically mentioned that for details, the desirous allottee could visit www.puda.e-auctions.in and that the site plan available on the website of PUDA would clearly show that the plots in question had been specifically described as one kanal plots in the residential area and not as commercial plots/sites as alleged in the FIR.

9. It is further submitted that a perusal of the advertisement and site plan would show that there is no ambiguity and that in the site plan

(Annexure P-6-A) which has been issued by the Town and Country Planning Department, a note has been made with red ink to the effect that, in light of the decision of RPO Committee dated 20.07.2012 an amendment in the lay out plan has been made converting some commercial sites (SCO sites) to residential sites (1 kanal plots) and institution. Further reference has been made to the site plan (Annexure P-7) which had been displayed at the office of B.D.A. showing the numbered plots. It is submitted that at any rate, as a matter of general practice a person, who is interested in participating in the auction would visit the office of B.D.A. and inspect the record and would also visit the site in question and thus, it cannot be alleged that the auction had been carried out discreetly. It is further submitted that a perusal of the said site plan (Annexure P-6/A) would show that the plots were not situated in a prime location as they were surrounded by commercial buildings and on account of the same plot No.727, which was adjoining plot Nos.725-C and 726, was left unsold in the auction. It is contended that at any rate, the reserve price of the said plots was Rs.29,900/- per square meter in the year 2021 and the reserve price in the auction of the year 2022 under the new regime was Rs.1100/- per square meter lesser and thus, even as per the calculation of the authorities under the new regime, the reserve price fixed in 2021 was adequate and the calculation of the loss to the tune of Rs.65,21,150/- has been done on the basis of presumptive loss without considering the relevant factors including COVID, the auction of 2022 being held after six months, Manpreet Singh Badal having purchased the property in 2021 etc.

10. It has been argued that, at best, the case of the prosecution

against the petitioners is that the three petitioners had participated in the auction and the petitioners namely, Rajiv Kumar and Vikas Arora have entered into an agreement to sell dated 04.10.2021 with Manpreet Singh Badal and have sold their rights which they had got in the auction being the highest bidders to the said Manpreet Singh Badal and the said transactions do not call for initiation of criminal proceedings more so, when the auction itself has not been challenged by any person or cancelled by the State. It is also submitted that at best, the petitioners are sought to be implicated with the aid of Section 120-B IPC. It is further submitted that since the police remand of the petitioners is over and the petitioners are in judicial custody and the entire case is based on documentary evidence, thus, no useful purpose would be served by keeping the petitioners in further incarceration and that the petitioner-Rajiv Kumar is running a resort in the name of Ridhi Sidhi (Three Palm Resort) at Goniana Road, Bathinda and petitioner-Vikas Arora is a businessman and is running a sheller in the name of M/s D.M. Industries in partnership and the petitioner-Amandeep Singh is working as an Accountant in a private firm and none of the said petitioners are involved in any other criminal case and have deep roots in the society and further they undertake not to influence or threaten any witnesses in case they are released on regular bail. It is further submitted that the co-accused of the petitioners namely Manpreet Singh Badal has been granted interim anticipatory bail vide detailed order dated 16.10.2023 (Annexure P-11) and even, Bikramjit Singh Shergill and Pankaj Kalia, co-accused have also been granted interim anticipatory bail vide orders passed by this Court on 02.11.2023 and 03.11.2023 passed in CRM-M-54807-2023 and CRM-M-

55148-2023 respectively.

11. On the other hand, learned State Counsel has opposed the present petitions for grant of regular bail to the petitioners and has submitted that in addition to the allegations levelled in the FIR against the petitioners, the fact that the petitioners were involved in the conspiracy is further clear from the fact that during the investigation, it has been found that the petitioner-Vikas Arora had made several phone calls to Jaijeet Johal, brother-in-law of Manpreet Singh Badal from 11.08.2021 to 19.01.2023 and the petitioner-Rajiv Kumar made several calls to Jaswinder Jugnu who is a close associate of Manpreet Singh Badal from 17.08.2021 to 09.11.2021 and the petitioners namely Rajiv Kumar and Vikas Arora also have inter se calls from 14.08.2021 to 15.10.2021 which would show that prior to the auction dated 27.09.2021, the said persons were in touch with each other. It is further submitted that as per the instructions of PUDA, since, in case of a single bidder the auction could be cancelled by the authorities thus, the petitioner-Amandeep Singh was also added in the bidding process and he made bids for both the plots although, he was not successful in either of them and also did not have the requisite financial capacity. It is submitted that the map (Annexure P-6A) which has been referred to by learned Senior Counsel for the petitioners was never uploaded and the only map which was uploaded was the one which showed the area in question as a commercial site instead of residential site and thus, the true price of the plots at the time of the auction of 2021 could not be fetched. It is further submitted that the petitioners namely Rajiv Kumar and Vikas Arora had purchased the stamp papers on 30.09.2021 which was prior to the

agreement to sell dated 04.10.2021 which also showed that they were in conspiracy with Manpreet Singh Badal and the other co-accused. It is submitted that on account of conspiracy, loss of Rs.65,21,150/- has been caused to the State and thus, the petitioners should not be released on bail. It is further submitted that the investigation, in the present case, is still continuing and in the order granting interim anticipatory bail to the co-accused Manpreet Singh, Bikramjit Singh Shergill and Pankaj Kalia, it has been specifically specified by this Court that all the issues are kept open and the matter would be adjudicated after the State and the complainant file their reply to the petition and after considering all the relevant documents and thus, the said orders do not further the case of the petitioners. It is further submitted that in pursuance of the disclosure statement of the petitioner-Amandeep Singh, recovery of computer which was used for bidding has been effected.

12. Learned Senior counsel for the petitioners namely Rajiv Kumar and Vikas Arora, in rebuttal, has submitted that Jaswinder Jugnu with whom phone calls are alleged between the petitioner-Rajiv Kumar, is not an accused till date. Learned counsel for the petitioner-Amandeep Singh has submitted that the said computer belonged to Mr. Sanjiv Kumar, Advocate and even as per the case of the prosecution, recovery has been effected from the premises of Sanjiv Kumar, Advocate and even the said Sanjiv Kumar, whose computer was used has not been made an accused in the present case.

13. This Court has heard learned counsel for the parties and has perused the paper book.

14. It is not in dispute that the petitioners namely Rajiv Kumar and Amandeep Singh were arrested on 24.09.2023 and petitioner-Vikas Arora was arrested on 25.09.2023 and all the three petitioners remained in police custody for four days and thereafter, have been in judicial custody. None of the three petitioners are involved in any other FIR except the present FIR and no recovery has been effected from petitioners namely Rajiv Kumar and Vikas Arora and even as per the case of the prosecution, in pursuance of the disclosure statement of Amandeep Singh, recovery of one computer which was used for bidding has been effected and thus, recovery has already been effected from petitioner-Amandeep Singh and the entire case is based on documentary evidence and no further purpose would be served by keeping the petitioners in further incarceration as the completion of the investigation, presentation of challan and conclusion of trial is likely to take time. It is further not in dispute that the petitioners are not public servants and there are no specific allegations against the petitioners with respect to the auction of 2018 or 2022 or to the effect that the petitioners had played any role in carrying out the auction or uploading the site plan or fixing the reserve price. It is also not in dispute that the reserve price at the time of the auction in the year 2021 in which the petitioners participated was Rs.29,900/- per square meter whereas in the auction which had taken place in the year 2022 under the new regime, the reserve price for plot No.727 which was the plot adjoining to the plots in question and had remained unsold in the auction of 2021, had been kept at Rs.28,800/-per square meter which is Rs.1100/- lesser than the reserve price for the auction which had taken place in the year 2021. The auction of the plot Nos.725 (subsequently

725-C) and 726 in favour of the petitioners namely Rajiv Kumar and Vikas Arora were at a rate of Rs.30,348.5/- per sq. meter which was higher than the reserve price of Rs.29,900/- per square meter. The role attributed to the petitioners is that the petitioners had participated in the auction on 27.09.2021 and further, the petitioners namely Rajiv Kumar and Vikas Arora were successful in the same and they had sold the two plots which were allotted to them to co-accused Manpreet Singh Badal by entering into an agreement to sell dated 04.10.2021. It is the case of the petitioners that the allotment/auction in favour of the petitioners has neither been challenged by any person nor has been cancelled by the State and that when, as per the authority under the new regime, the reserve price has been fixed at a price lesser than the price which was fixed when auction had taken place in 2021, would show that even after six months and even under the new regime, the authorities were of the opinion that the price fetched in the earlier auction was adequate and thus, the question of any loss to the State would not arise and the transactions entered into by the petitioners cannot be stated to be illegal transactions and all the transactions have been done through banking channels in pursuance of the agreement to sell dated 04.10.2021 and are also reflected in the Income Tax Returns of the petitioners namely Rajiv Kumar and Vikas Arora. On the contrary, it is the case of the State that the petitioners are a part of a conspiracy as has been detailed in the FIR and are sought to be implicated with the aid of Section 120-B IPC. The said aspects as well as the arguments raised on behalf of the petitioners as well as the State noticed hereinabove would raise debatable issues, which would be finally considered by the trial Court during the course of trial and this Court

does not wish to give any final opinion with respect to the same. The petitioner-Rajiv Kumar is stated to be running a resort in the name of Ridhi Sidhi (Three Palm Resort) at Goniana Road, Bathinda and petitioner-Vikas Arora is stated to be running a sheller in the name of M/s D.M. Industries in partnership and the petitioner-Amandeep Singh is stated to be an Accountant working in a private firm and none of them have any criminal antecedents and are also ready to abide by the conditions to be imposed by this Court and have deep roots in the society.

15. Keeping in view the abovesaid facts and circumstances, all three petitions are allowed and the petitioners are directed to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate, subject to them not being required in any other case.

16. However, it is made clear that in case, any act is done by the petitioners to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioners. The petitioners shall not travel abroad without seeking prior permission of the competent Court.

17. Nothing stated above shall be construed as an 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.

09.11.2023

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No