

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56971-2023 (O&M)
Date of order: 06.12.2023

Pawan Kumar @ Pawan Kumar Sharma
... Petitioner(s)
Versus
State of Punjab
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Sanjeev Duggal, Advocate
for the petitioner(s).
Mr. Sanish Girdhar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
26	30.09.2023	Vigilance Bureau, Jalandhar Unit, Kapurthala	166, 177, 210, 406, 409, 418, 420, 120-B and Section 7 of the Prevention of Corruption Act, 1988 as amended by the Prevention of Corruption (Amendment) Act, 2018.

1. Apprehending arrest in the FIR captioned above, the petitioner who was posted as Naib Tehsildar, had come up before this Court under Section 438 CrPC by way of present petition.
2. In paragraph 13 of the bail petition, the accused declares that they have no criminal antecedents.
3. Case of the prosecution is being extracted from status report filed by the State by way of affidavit of concerned DySP, which read as under:-

“2. That the brief facts of the case are that a case bearing FIR No.26 Dated 30.09.2023 was registered under section 166/177/210/406/409/418/420-B of IPC and Section 7 of PC Act against the petitioner and 11 other accused namely Jarnail Singh Wahid, Rupinder Kaur Wahid, Sandeep Singh Wahid, Sukhbir Singh Sandhar, Harwinderjit Singh Sandhar, Kuldeep Singh Sandhar, Kulwant Singh, Jaswinder Singh Bains, Aman Sharma, Manjit Singh Dhillon, Parveen Chhiber and the petitioner

- on the basis of Vigilance enquiry no. 4/2019 Jalandhar which was conducted on the basis of source report.
3. That during enquiry it was found that Director of M/s Jagatjit Singh Sugar Mills Company Limited and M / s Wahid Sandhar Sugar Mills Limited have mortgaged the government property with bank which they were not legally allowed to do so and the petitioner while posted as Naib Tehsildar had registered the mortgage deed in favour of bank. During enquiry it was also found that Maharaja Jagatjit Singh of State of Kapurthala in his agreement dated 09.02.1933 in order to develop Sugar Mill Industries entered with Jagatjit Sugar Mills Co. Ltd. 35 Ghuma (251 Kanal 18 Marlas) 31 Acre 03 Kanal 18 Marlas Land without any consideration as Mafi Land gave to Jagatjit Sugar Mill Co. Ltd. Phagwara to run sugar mill whose ownership rights were given to Jagatjit Sugar Mill Co Ltd. under some extent. According to the agreement dated 09.02.1933 it has been specifically mentioned in the clauses of the agreement that company cannot do any work except with the prior approval of state government. The sanction of the state government is necessary to do any further work in the company. It is also mentioned in the agreement that if sugar mill closes then this land will revert back to State without any compensation. It is also one of the clause of the agreement that Company can transfer its right to other company, corporation or to individual only with the permission of State.
 4. That it is mentioned in the agreement that if the firm belongs to Sugar Industries and wants to enter into partnership with any other then there is no objection but the same will have to be informed to State Government. On 18.10.2000 Jagatjit Singh Sugar Mills Company Ltd. Phagwara run by Oswal Agro Mills Ltd. Phagwara, transferred its rights to M / s Wahid Sandhar Sugars Ltd. after signing MOU. There are number of directors in both the companies. Then on 21.03.2001 directors of above said both the companies Jagatjit Sugar Mills Company Limited Phagwara and M / s Wahid Sandhar Sugar Limited Phagwara in connivance with each other acquired the Mill and land from Jagatjit Sugar Mills Company Limited Phagwara for a lease of 99 years at sum of Rs 1000 / per month without the approval of the Government and gave the same to M / s Wahid Sandhar Sugar Mills Phagwara on lease. According to clause 4 (d) (a) on the registered lease deed condition has been imposed that M / s Wahid Sandhar Sugar Limited, can mortgage this property with any bank and financial institution there will be no objection to Jagatjit Sugar Mills Ltd Co. This lease was not entered in the revenue record so that the bank and the Government could be cheated while taking loans etc. Moreover M / s Wahid Sandhar Sugar Ltd. Phagwara stood as guarantee for the loan passed on Government land and undue financial advantage has been taken by both the companies on Government lands. A loan for a sum of Rs 93.34 crores was sanctioned by the State Bank of India on government land.
 5. That further the said directors of both the companies in collusion with each other got registered a new company under the name Sugar Mill Plaza Private Limited, G.T Road, Phagwara in the year 2010-2011 in which Jaswinder Singh Bains Director of Jagtanjit Sugar Mills Company Limited, (Director Wahad Sandhar Sugars Limited) Phagwara, Sandeep Singh Wahad (Director Wahad Sandhar Sugar Limited Phagwara) Sukhbir Singh Sandhar (Director Wahad Sandhar Sugars Limited Phagwara) were appointed directors in the said company. In the year 2013-14 another company named as M/s W S FITNESS PRIVATE LIMITED, was got registered.

5. That the director of M/s Jagatjit Sugar Mills Company Ltd. operating through M/s Wahad Sandhar Sugars Ltd. has obtained a decree in the year 2013 from the Hon'ble Court of Ld. Additional Civil Judge, (Senior Division), Phagwara by filing a Civil Suit against each other without making the State of Punjab as necessary party in the suit by concealing true and actual facts from the Court. however civil appeal is pending against the judgment passed by Ld. Additional Civil Judge, (Senior Division), Phagwara.
 6. That it is pertinent to mention here that Praveen Chhibbar the then Sub Registrar, Phagwara, knowingly well colluded with said directors registered a Sale Deed measuring 6 kanal 4 marlas of the land in favour of M/s Sugar Plaza Pvt Ltd. Similarly the petitioner designated as Naib Tehsildar in violation of section 135 of Punjab Registration Manual 1929 registered mortgage deed dated 30.05.2019 knowing that it is government land and it cannot be mortgage with the bank in collusion with directors has registered the said mortgage deed in favour of State Bank of India, Ludhiana.”
4. Vide order dated 14.11.2023, this Court had granted anticipatory bail to the petitioner, subject to certain conditions and his joining investigation, which is still continuing.
5. State’s counsel, on instructions, submits that the petitioner has joined the investigation and as such, petitioner’s custodial interrogation is not required.
6. I have heard counsel for the parties and gone through the pleadings.
7. Petitioner’s counsel has argued that role of the petitioner is only that he had registered a mortgage deed and at that time, he was only supposed to verify the ownership from the revenue record and nothing else, which he did. While referring to paragraph 8 of the reply, he stated that despite the order passed by the concerned Secretary, prohibiting the sale of such land, endorsements were not made in the revenue record and as such, the petitioner was not aware about the said order. It would be appropriate to refer to paragraph 8 of the reply which reads as under:-
- “8. That earlier in the year also an attempt was made by management of mill to sell the Government land regarding which the then Deputy Secretary of the Revenue Department Sh. C.D Khanna, I.A.S, by issuing letter No.1316-R-3-73/3777 Dated 22.03.1973 to Deputy Commissioner, Kapurthala and the sale of land was prohibited. The note of this order was given through Rapat No. 1062 dated 04.04.1973 was given in the revenue record as Special Remarks of Rojnamcha and Jamabandi of year 1970-71 but the same was not entered in the revenue records thereafter by the then Tara Singh Patwari who has passed away now.”
8. It is undisputed that petitioner’s job was only to register the mortgage deed after verifying the same from revenue record and there is no allegation that the

revenue record did not point out towards ownership. As such, petitioner makes a case for anticipatory bail. However, since loan was obtained by the concerned sugar mill by mortgaging the property to which they could not establish the title, as such the investigator is directed to send a copy of the complaint and all relevant documents along with this order to the concerned branch of the State Bank of India, which had given loan for a sum of Rs.93.34 crores to the said company. It is for the reason that the public money is not usurped. Petitioner’s counsel has submitted that he has specific instructions that the loan is regular one and has not been converted into an NPA. Be that as it may, it is for the concerned Bank to protect/secure its money by executable collateral security. **Concerned DSP to send this communication to the concerned Bank at the earliest but not later than a week from today.**

9. Given above, the petition is allowed and interim order dated 14.11.2023 is made absolute. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

December 06, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes