

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-61162-2022(O&M)

(1) Sanjay KumarPetitioner
Versus
State of HaryanaRespondent

CRM-M-7872-2023 (O&M)

(2) Sajjan Singh YadavPetitioner
Versus
State of HaryanaRespondent

Date of Decision:- 28.3.2023

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Anshul Gupta, Advocate, for the petitioner
in CRM-M-61162-2022.

Mr. Ankur Lal, Advocate, for the petitioner
in CRM-M-7872-2023.

Mr. Gurmeet Singh AAG, Haryana and
Ms. Geeta Sharma, DAG, Haryana,
assisted by Inspector Jai Chand.

GURVINDER SINGH GILL, J.

1. This order shall dispose off the above mentioned two petitions filed on behalf of Sanjay Kumar and Sajjan Singh Yadav seeking grant of anticipatory bail in a case registered vide FIR No. 43 dated 28.11.2022 under Sections 409, 418, 420, 467, 468/120B IPC and Sections 13(1)(C), 13(1)(D)

read with Section 13 (2) of the Prevention of Corruption Act, 1988 at Police Station State Vigilance Bureau, Gurugram, District Gurugram.

2. As per the case of prosecution, the Estate officer, HUDA had put up SCO No. 30, Sector 23/23-A, DSC Gurugram for auction in the year 1997 and the same was allotted to its highest bidder i.e. M/s R.R. Foundation Engineering Private Limited on 27.11.1997 for an amount of Rs.39,52,000/-. A formal allotment letter No. 288 dated 18.12.1997 was also sent by HUDA to M/s R.R. Foundation Engineering Private Limited. However, the same was received back with the report that no such company exists at the given address. Consequently, the allotment amount of 15 percent required to be deposited initially was not deposited by M/s R.R. Foundation Engineering Private Limited and the allotment letter was cancelled on 10.4.1998. Though, M/s R.R. Foundation Engineering Private Limited preferred an appeal and also a revision against the said order but the same were dismissed on 16.4.1999 and 28.2.2000. M/s R.R. Foundation Engineering Private Limited also approached the District Consumer Redressal Forum, Gurugram but remained unsuccessful even before the Forum. The appeal filed against the judgment dated 1.8.2018 passed by the District Consumer Redressal Forum was also dismissed by the State Consumer Disputes Redressal Commission, Haryana on 30.11.2011.
3. One V.K.Goel, Attorney of Rishi Raj, Director, M/s R.R. Foundation Engineering Private Limited filed CWP No. 12629 of 2016 and CWP No. 12653 of 2016 for getting the allotment restored in respect of SCO No. 30 and also SCO No. 8. During the pendency of the said writ petitions, the GPA holder namely Shri V.K. Goel moved an application before the

government on 7.3.2018, which was sent to the office of the Chief Administrator, HUDA, Panchkula.

4. It is further the case of prosecution that the Chief Administrator, HUDA vide letter dated 122448 dated 15.6.2018 and e-mail dated 27.7.2018 directed the Estate Officer, HSVP, Gurugram to investigate as to why the allotment letter had not been received by M/s R.R. Foundation Engineering Private Limited and that in case the same had not been issued, then necessary steps be taken in this regard after verification of the facts and it was directed that report be submitted within three days. One e-mail to a similar effect was also sent to the Administrator, HSVP, Gurugram. It is alleged that the Estate Officer Mukesh Solanki, HUDA, Gurugram thereafter re-issued allotment letters vide letter No. 739 and No. 740 dated 22.6.2018 and that too at the old price. The order of re-allotment was issued by Ram Swaroop Verma, the then Administrator, HUDA with the permission of the Chief Administrator, HUDA. Thereafter, upon re-allotment of the plots, both the writ petitions which were pending in the High Court had been withdrawn, having been rendered infructuous. When copies of the orders passed by Hon'ble High Court was received in the office of the Chief Administrator, HUDA, comments were sought from the office of Administrator, HUDA, Gurugram and then it came to be known that the allotment of SCO Nos. 8, 30 and 13 had been restored by Shri Mukesh Kumar Solanki, Estate Officer by ignoring the rules of allotment and by exercising his position in connivance with the accused including officials of HUDA. Later, when Mukesh Kumar Solanki did not attend office for two days and additional charge of Estate Officer-1, HUDA, Gurugram was handed over to Shri Bharat Bhushan

Gogia, Estate Officer-2 vide letter No. 349 dated 30.8.2018 then Shri Bharat Bhushan Gogia, Estate Officer cancelled re-allotment vide letter No. 350 dated 30.8.2018. It is the case of prosecution that Mukesh Kumar Solanki in connivance with Sajjan Singh, the then Section Officer, Shri Subhash Chand, Deputy Superintendent, Shri Sanjay Kumar Clerk/Record Keeper and in connivance with the firm and the GPA holder V.K.Goel had got the SCOs re-allotted despite dismissal of appeals/revisions and had caused undue loss to government exchequer.

5. The learned counsel representing the petitioners have submitted that the petitioners have falsely been implicated in the present case and had no role to play in the restoration of the allotment of the SCOs in question and that the requisite orders for allotment had been passed by the Estate Officer in consultation with other senior Officers. The learned counsel, in this regard, has drawn the attention of this Court to letter issued vide Memo No. 122448 dated 15.6.2018 received from the office of the Chief Administrator, HSVP, Panchkula to Estate Officer, HSVP, Gurugram (Annexure P-6 in CRM-M-61162-2022). The contents of which read as under :-

“Please refer to this office memo No.62267 dated 2.4.2018, vide which a copy of representation dated 7.3.2018 of M/s R.R. Foundation received from Hon’ble CM-cum-Chairman, HSVP has been sent to your office with the request to send detailed comments in the matter and subsequent reminders were issued on 23.5.2018 and 4.6.2018 through email but the required comments have not been received in this office so far.

It is again desired to send the detailed comments on the representation dated 7.3.2017 of M/s R.R. Foundation Engineer Pvt. Ltd. by verifying the facts with regard to non delivery of the allotment letter of this site to the allottee. If the said fact is correct,

you are requested to take necessary action regarding issuance of allotment letter under intimation to this office within 3 days positively.”

6. The learned counsel have submitted that it was pursuant to the aforesaid letter dated 15.6.2018 that the case was reopened and that the petitioner Sanjay Kumar had simply put up the file before his senior officers and had no role to play as regards preparation of any noting. The learned counsel representing the petitioner Sajjan Singh Yadav has submitted that he is posted as a Section Officer and it was vide order dated 22.6.2018 that he was given an additional charge of Accountant and it was in that capacity that he signed on the relevant documents after the Estate Officer had already passed orders of allotment and that he had no role to play in the entire process of re-allotment before 22.6.2018 i.e. before the allotment had been re-stored by the Estate Officer.
7. Opposing the petition, the learned State counsel has submitted that the petitioners were part and parcel of the entire conspiracy and were in active connivance with Mukesh Kumar Solanki, Estate Officer and V.K.Goel, Power of Attorney holder of Rishi Raj, Director of M/s R.R. Foundation Engineering Private Limited and that the petitioners had also received illegal gratification paid by Shri V.K.Goel. The learned State Counsel has submitted that during the course of investigation it has been found that while an amount of Rs. 2 lacs had been given to Mukesh Solanki, Estate Officer, an amount of Rs. 60,000/- was given to Subhash Chand, Deputy Superintendent and Rs. 75,000/- to Sajjan Singh, Section Officer and Sanjay Kumar, Clerk. The learned State counsel has submitted that as a matter of fact the noting had been initiated by petitioner Sanjay Kumar, Clerk.

8. This Court has considered rival submissions addressed before this Court and has also perused the documents on record referred to by learned counsel for the petitioners.
9. As far as the case of petitioner Sanjay Kumar is concerned, he was posted as Clerk at the relevant point of time. Pursuant to the receipt of letter dated 15.6.2018 from the Chief Administrator HUDA (Annexure P-6 in CRM-M-61162-2022), it was Sanjay Kumar, Clerk who is stated to have prepared the initial noting. A copy of the said noting dated 20.6.2018 is annexed as Annexure R-1 in CRM-M-61162-2022 of the reply filed by the State which clearly indicates that the noting in question had initially been prepared by Sanjay Kumar, Clerk. Though, the learned counsel representing petitioner Sanjay Kumar vehemently argued that the said noting was in the nature of a formal noting and was a reproduction of letter dated 15.6.2018 but a perusal of the same shows that in addition to the reproduction of letter dated 15.6.2018 some other facts have also been mentioned in the said noting. However, the material facts pertaining to the dismissal of appeal and revision against the cancellation orders are conspicuously missing and nor is there any reference to the factum of filing of a petition before the Consumer Forum by M/s R.R. Foundation Engineering Private Limited where it had remained unsuccessful. Apparently, this concealment had been made so as to facilitate extension of undue benefit in favour of M/s R.R. Foundation Engineering Private Limited in the matter of restoration of the allotment of SCOs in its favour. The petitioner Sanjay Kumar was expected to have mentioned all the relevant facts while preparing the noting. It was pursuant to preparation of the said noting that the allotment came to be restored. In

these circumstances, the complicity of the petitioner Sanjay Kumar is clearly evident. His custodial interrogation would be necessary to unearth the finer details of the entire scam.

10. As far as the case of the petitioner Sajjan Singh Yadav is concerned, he was posted as Section Officer in HUDA, Gurugram. It appears that the Accountant had proceeded on leave and on account of which the petitioner Sajjan Singh Yadav had been given the additional charge of Accountant. An e-mail dated 21.6.2018 sent by Estate Officer, HUDA (Annexure R-2 in CRM-M-7872-2023) reads as follows :-

“Please create PPM ID of Sh. Sajjan Singh as Accounts Officer during the leave period of Smt. Jyoti Phogat as per attached approval.”

11. Office order dated 25.6.2018 (Annexure P-3 in CRM-M-7872-2023) issued by the Estate Officer reads to the following effect :-

“For smooth working of office work, it is hereby ordered that all files of this office will be routed through Sh. Sajjan Singh Yadav, Section Officer before submitting to the Estate Officer-I, HSVP, Gurugram with immediate effect.”

12. Office order dated 19.7.2018 (Annexure P-4 in CRM-M-7872-2023) was issued withdrawing the additional charge as Account Officer reads as follows :-

“In the interest of work and for smooth running of official work, the office order of Sh. Sajjan Singh Yadav, Section Officer issued vide letter No. 4521 dated 26.06.2018 is hereby withdrawn with immediate effect and the work of Account Officer is also withdrawn as Smt. Jyoti Phogat, A.O. has resumed her duties after leave.”

13. Reverting back to noting dated 20.6.2018 (Annexure R-1 in CRM-M-61162-2022), the same shows that Sanjay Singh Yadav affixed signatures upon the same on 22.6.2018 which he is shown to have affixed in the capacity of Accountant after the allotment letter had been ordered to be issued by the Estate Officer and there is nothing else on record to show that the petitioner had any role to play in the preparation of noting or was required to furnish any inputs before the matter was to be put up before the Estate Officer. In these circumstances, the question as regards complicity of the petitioner Sajjan Kumar Yadav would be debatable. The petition qua Sajjan Kumar Yadav, as such, merits acceptance.
14. As a sequel to the discussion made above, while the petition on behalf of the petitioner Sanjay Kumar is dismissed, the petition on behalf of Sajjan Kumar Yadav is accepted and the petitioner Sajjan Kumar Yadav in the event of his arrest shall 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 Arresting/Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.
15. A photocopy of this order be placed on the file of connected case.

28.3.2023

kamal

(Gurvinder Singh Gill)
JudgeWhether speaking /reasoned
Whether ReportableYes / No
Yes / No