

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59988-2023 (O&M)
Reserved on: 07.12.2023
Pronounced on: 14.12.2023

Gajender Singh
... Petitioner(s)
Versus
State of Haryana
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
Present:- Mr. Vikram Singh, Advocate
for the petitioner(s).
Mr. Rajat Gautam, Addl.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
62	4.3.2022	Sadar Jhajjar, District Jhajjar	406, 409, 420 IPC and Section 13(2) of the Prevention of Corruption Act, 1988

1. Apprehending arrest in the FIR captioned above, the petitioner had come up before this Court by filing the present petition under Section 438 CrPC seeking anticipatory bail on 28.11.2023.
2. In paragraph 15 of the bail petition, the accused declares that they have no criminal antecedents.
3. Facts of the case are being extracted from the reply dated 4.12.2023 filed by way of affidavit of concerned DySP in Court, which read as under:-
- “4. That the facts giving rise to registration of the present FIR are that on 28.02.2022, a complaint no.4392 dated 28.02.2022 was received in the police station on behalf of Block development and panchayat Officer Jhajjar in the manner that, ""From Block and Panchayat Officer, Jhajjar To Station House Officer (Sadar) District Jhajjar. No.4392 dated 28.02.2022. Sub: For registration of case for embezzlement of government fund received in Panchayat account and for irregularities in the development works during the tenure of Ex. Sarpanch Sh. Sombir Singh, Gram Panchayat Bhadani (February 2016 to February 2021). In connection with

above subject by sending to your goodself it is written that Deputy Commissioner, Jhajjar office letter No.5096/Panchayat dated 06.09.2021, one complaint has been received in this office for inquiry. In connection with complaint, the report given by Gram Secretary, for the construction of streets in the Gram Panchayat Bhadani, grant of Rs.18,00,000/- and Rs.10,11,191/- has been received from the Government. Panchayat has passed the resolution No.1 dated 15.11.2020, according to which from the amount of Rs.10,11,191/- the work construction of street from the shop of Master to the Veterinary Hospital and its payment of Rs.10,11,191/- has been made to the firm as per resolution No.1 dated 15.11.2020 of the Gram Panchayat and on dated 19.12.2020, from the Panchayat Bank Account No.0751104000009607, also the above said amount has been withdrawn. Apart from this one another street (in which no place is mentioned by showing it continue as per Panchayat resolution Nr.1 dated 07.05.2019 an amount of Rs.18,00,000/- has been paid to the firm and from the bank also this amount had been withdrawn. In the construction of both these streets, 1. Sh. Sombir, Ex. Sarpanch, Gram Panchayat Bhajani (M.9991921111), 2. Sh. Gajender Singh Gram Secretary (suspended), (M.8053808010), Block Jhajjar, 3. Sh. Parveen Gram Secretary (M9991962481) Present Block Palwal, District Palwal, 4. Firm in connivance with have misused the Government fund and have committed irregularities in the development work. Bill/Vouchers of these works had also not been produced. In this matter till now the statements given by concerned persons, resolutions of Panchayat, copies of bank passbooks are attached. Hence you are requested that against all concerned by registering an FIR for embezzlement of Government fund of Rs.28,11,191/- and for forging the record of development works and this office be informed. In this case for the necessary/required record Deepak Gram Secretary (M.9996497400) and in the Block Office Sh. Ashok Kumar (SEP M.9315447648) will cooperate".

5. That on the basis of the aforesaid complaint , the present FIR no. 62 dated 04.03.2022 was registered at Police Station Sadar Jhajjar for the commission of offences punishable under sections 2-205 406,409 120 IPC and 13 (2) Prevention of Corruption Act against the present petitioner, Sombir Sarpanch, Village Badhani, Parveen Gram Sachiv at present Block Palwal District Palwal and the firm which embezzled the Govt. fund and the investigation was set into motion.
6. That during the course of investigation, on 28.02.2022, copy of relevant record of assessment report from BDPO office Jhajjar was obtained as per which an amount of Rs. 28,11,191/-has been deposited in the account of JD Traders from the account of Gram Panchayat Bhadani and as per assessment, work of Rs. 14,50,541/- was done by Gram Panchayat which were taken into possession vide seizure memo."

4. Vide order dated 29.11.2023, this Court had granted interim anticipatory bail to the petitioner, subject to certain conditions and his joining investigation, which is still

continuing.

5. I have heard counsel for the parties and gone through the pleadings.
6. The petitioner was posted as Gram Sachiv. It has been alleged that resolutions were passed by the earlier Gram Panchayat for executing the construction work of streets. However, the petitioner in connivance with Ex-Sarpanch Sombir embezzled the funds so allotted. Sombir was arrested on 27.10.2023 and it was on his disclosure statement, the name of the petitioner surfaced in the scam. The allegation against the petitioner is that he was signatory to the resolutions passed by the earlier Gram Panchayat, vide which Government funds to the tune of Rs.28,11,191/- were withdrawn for executing the work which was assessed at Rs.14,50,000/-. However, it is the Gram Panchayat which takes decisions about the works and the role of a Panchayat Secretary is only clerical in nature to assist the office bearers of Gram Panchayat by putting his signatures in the official work, so that not only the records are authenticated and maintained but also such resolutions are not changed in future. It cannot be said that being Panchayat Secretary, the petitioner had any role in decision making.
7. Given above, the petition is allowed and interim order dated 29.11.2023 is made absolute. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

December 14, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes