IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-61448-2023
Reserved on: 13.12.2023
Pronounced on: 19.12.2023

Sunil Kumar Gupta ...Petitioner

Versus

State of Punjab …Respondent

CRM-M-61451-2023

Prem Sagar Sharma ...Petitioner

Versus

State of Punjab …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vinod Ghai, Sr. Advocate with
Mr. Rahul Bhargava, Advocate
Mr. Arnav Ghai, Advocate
Mr. Shivam Sharma, Advocate
for the petitioner(s).

Mr. Luvinder Sofat, DAG, Punjab.

****

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
1	10.02.2017	Vigilance Bureau, Economic Offences Wing, District Ludhiana	409, 420, 467, 468, 471, 120-B IPC and 13(1)(D) r/w 13(2) of PC Act, 1988 (Section 201 IPC added later on)

1. This order shall dispose of above mentioned two petitions. For the sake of brevity, facts have been taken from **CRM-M-61448-2023** titled as **Sunil Kumar Gupta vs. State of Punjab.**

2. Petitioner-Sunil Kumar Gupta, who is father-in-law of main accused Anand Sagar Sharma and petitioner-Prem Sagar Sharma, who is father of Anand Sagar Sharma (the then SDM-cum-CALA Hoshiarpur), apprehending arrest in the FIR captioned above, had come up before this Court under Section 438 CrPC seeking anticipatory bail, by filing the present petitions on 05.12.2023.

3. Vide order dated 06.12.2023, the petitioner(s) were granted interim protection, which is continuing till date.

4. State has filed a common reply dated 11.12.2023, by way of affidavit of concerned DysP, in both the cases. Facts of the case are being extracted from paras 1 to 6 of the reply, which reads as under:-

> *"1.That it is pertinent to mention here that the FIR No. 01 dated 10.02.2017, registered Under Section 409, 420, 467, 468, 471, 120-B IPC and Section 13 (1)(d), 13 (2) of the Prevention of Corruption Act 1988, at Police Station*
> *Economic Offences Wing, Punjab, Vigilance Bureau Ludhiana was initially registered after Vigilance enquiry no. 09/2016 Jalandhar. Earlier 13 accused were nominated in this FIR and the role played by other 15 suspects was to be investigated. Thereafter, during the course of investigation a SIT was constituted to investigate the said matter by the then Chief Director Vigilance Bureau Punjab vide its office order dated 25.05.2018. The said SIT investigated the matter and filed cancellation report before the Hon'ble Special Court of Dr. Ajit Attri, Ludhiana on 13.06.2019.*
>
> *2. That the Hon'ble Special Court of Dr. Ajit Attri, Ludhiana had directed to further investigate the said FIR vide its order dated 05.04.2022. That as per the direction of this Hon'ble court the case was further investigated especially in the light of following 13 points.*
>
> *a) Whether any permission was sought from the Municipal Committee, Hoshiarpur/ administration prior to publication of notification no.3-A for the development of the colonies or not and what is the exact time of the development of colony if any?*
>
> *b) Whether the proper procedure for the change in the nature of the land has been followed before issuance of the variation certificates and when the change in the nature of land was applied in each such case and when the necessary procedure was followed in each case of change of the nature of the land? Whether owner of the land moved any written application before the SDM with regard to change in nature of the land or not and whether these application were entered in the diary by assigning the numbers? Apart from this, whether the nature of the land could be changed after publication of the notification no.3-A, 3-D, 3G or not and if it was possible, then what procedure was to be adopted for this purpose? In how many cases the nature of the land is changed after the notification 3A, 3-D and 3G?*
>
> *c) Whether the land in question has been sold or purchased after publication of notification no 3-A and subsequent notifications in pursuance to some conspiracy by the accused? The number of the sale deeds executed and registered immediately before and after the issuance of the notification/s, the market rate of the area prior to those sale deeds and the market rate of the area after the issuance of the notifications?*
>
> *d) In how many cases the applications for the change in the nature of the land were received, in how many cases such application were allowed and*

in how many cases the applications were not allowed? The entire process followed for the change of the nature of the land?

e) To what extent the amount of compensation was increased on change of nature of the land on sale/purchase of land in question after the publication of notification no.3-A?

f) On what basis, the amount of compensation was calculated?

g) To how many persons the compensation was disbursed and at what rate, who purchased land after the publication of notification 3-A?

h) What were the guidelines of the M.O.R.T.H regarding the aspect of sale/purchase of the land during the process of acquisition?

i) What were the responsibilities of the CALA regarding the issue of sale/purchase of the land and whether CALA carried out his responsibilities as outlined in the M.O.R.T.H guidelines?

j) Whether the proper procedure was followed by CALA in determination of I the compensation to be paid to the land owners?

k) Whether the change of the nature of land in question influenced the rates of compensation, if yes, then how much loss was caused by this to the State?

l) Whether the CALA determined the rates of compensation bases on nature of the land and market value as on the date of notification issued under section 3-A of the N.H. Act 1956 or not?

m) Whether the criteria followed for deciding the market value of the lands was based on the parameters provided by the law?

3. That, in order to comply with the directions of the Hon'ble court under order dated 05.04.2022, a Special Investigation Team (SIT) was constituted. Thereafter, during the course of further investigation by the said SIT, new facts have been discovered regarding the gravity of offence committed by the accused in the said matter. After perusal of the case documents by the SIT, it has come to notice that Draft 3A schedule was prepared by the survey company Louis Berger group and same was sent to office of XEN PWD Hoshiarpur (Project Director). Thereafter the same draft 3A Schedule was further sent to the office of co-accused Anand Sagar Sharma who was the then SDM-cum-CALA Hoshiarpur by XEN PWD Hoshiarpur vide office letter no. 903 dated 19-01-2015 for verification of khasras. It is pertinent to mention here that the accused Anand sagar sharma the then SDM-cum-CALA Hoshiarpur intentionaly and with malafide kept the said Draft 3A schedule pending in his office for about four months and fraudulently changed the khasra numbers of five villages namely Khwaspur/Piplanwala, Dagana Kalan, Dagana Khurd, Hardokhanpur and Bassi jana in the 3A schedule. By doing this he illegally created a new road alignment falling in the above mentioned five villages. That, in order to prove this illegal road alignment, the present SIT compared both the draft 3A schedule prepared by Louis burger company and 3A schedule prepared by the accused and then SDM cum CALA Anand sagar sharma along with mentioned khasra numbers in both and map *showing the road alignments through concerned Revenue officials. (Copy of the comparison report and map attached herewith as annexure-1).*

4. That after the creation of new road alignment in the above mentioned five villages the accused Anand Sagar Sharma the then SDM-cum-CALA Hoshiarpur involved his near and close persons namely Harpinder Singh etc. That accused Harpinder Singh started purchasing the agricultural land in villages Khawaspur and Hardokhanpur in is own name and in the name of his family members/relatives/close associates Thereafter, in connivance and conspiracy with accused Anand sagar sharma, the accused Harpinder Singh and other accused mentioned in this FIR received compensation on colony/residential rates, which is totally unfair and illegal in the eyes of law. It is worth while to mention here that the present SIT while during the course of investigation obtained reports from the concerned departments to verify and investigate the facts as following.

(i) The SIT obtained report dated 04/10/2023 from the office of District town planner Hoshiarpur and as per this report/record no CLU/Lay out/Site plan/NOC were issued by the then office. In fact there is no communication between any of the accused who filed application under 3C and the Office of District town planner with regard to same. It is crystal clear from the report of DTP dated 04/10/2023 that there is no basic facility like street lights/drainage system/water supply etc. available even as on date as per the record. (Copy of the report dated 04/10/2023 is attached as annexure-2).

(ii) That during the course of investigation the report from PSPCL, was also obtained. While in the said report dated 10/10/2023 it is specifically mentioned that none of the accused who filed application under 3C has applied for issuance/installation of the electricity meter nor the same has been issued by the department as per the office record. (The copy of said PSPCL report dated 10/10/2023 is attached as annexure-3)

(iii) That the current/latest report from the revenue department was also obtained by the SIT during the course of investigation and as per the said report dated 21/09/2023 there is no colony/residential area in the said land described by the accused while filing application under 3C. Even the said area is surrounded by agricultural land with crops as well (The copy of revenue report dated 21/09/2023 is attached as annexure-4).

5. That as per the law laid down in the National Highway Act 1956 under section 3D(2);-

"On the publication of the declaration under sub-section (1), the land shall vest absolutely in the Central Government free from all encumbrances." But the accused and the then SDM cum CALA Anand sagar sharma, in connivance and conspiracy with other accused and by abusing process of law kept transferring the ownership titles in the changed khasra numbers in 3A schedule by him even after notification under 3D/3G, even when the names of actual owners of the land were already published in the notification under 3D/3G, in order to give compensation to other accused and conspirators in this matter. It is also pertinent to mention here that during the course of investigation the actual owners of the land came forward and got recorded their statements that the accused have cheated and defrauded them and their compensation amount has been grabbed by them, in connivance and conspiracy with each other

6. Detail of sequentially published notifications regarding the acquisition of land under National Highway 70 (Now NH-3) (Jalandhar-Chintpurani) as following:-

Sr. no.	Notifications	Date of publication in newspaper
1	3A	14.07.2015
2	3D	10.11.2015 & 11.11.2015
3	3G	01.12.2015

5. I have heard counsel for the parties. It would be appropriate to extract role of the petitioner(s) from paras 7 to 11 of the reply, which reads follows:-

7. <u>Role of accused/petitioner Sunil Gupta is described as following:</u>

That the accused/petitioner is Father in Law of accused and then SDM-CALA, Hoshiarpur namely Anand Sagar Sharma and well known to other accused Ajay kumar as both are engaged in steel industry being business neighbors. It is pertinent to mention here that in the course of illegal transaction accused/petitioner, in connivance and conspiracy with his son-in-law and accused Anand Sagar Sharma (the then SDM-cum-CALA Hoshiarpur), further his son-in-law's father accused Prem Sagar Sharma, his friend accused Ajay Kumar firstly helped sister-in-law of accused Ajay kumar namely accused Anju aggarwal, in purchasing the agricultural land in village Khawaspur through accused Harpinder singh with sale deed bearing no. 1819 dated 22.06.2015 whereas accused Harpinder Singh mentioned here himself appeared at the time of said sale deed. (The copy of Sale deed is attached herewith as annexure- 5).

8. That it is pertinent to mention here that the accused Anju Aggarwal did not file any application to the then SDM-cum-CALA, Hoshiarpur under section 3C of National Highway Act 1956. It is further very relevant to mention here that on 03/08/2015. The application of 3C for colonization was filed by other accused namely Parteek Gupta on khasra numbers mentioned in the sale deed of Anju aggarwal. (Copy of the application 3 C is attached as annexure-6). Thereafter, the then SDM cum CALA and accused Anand Sagar Sharma obtained and got verified the said application through wrong report by the concerned Patwari and accused Daljit Singh directly on 07/08/2015 (Copy of the report by Patwari is attached as annexure-7). Thereafter, the accused and the then SDM cum CALA, on the basis of the same report considered the agricultural land as colony (Gair mumkin colony) in variation certificate illegally and inappropriately, to give undue advantage and benefits to others accused who were part of this conspiracy. (Copy of the variation certificate is attached as annexure-8) It is also worth while to mention here that the nature of the land was published as agricultural land in the notifications 3D and 3G. Thereafter the accused Anju aggarwal was paid a huge compensation amount of Rs. 4,45,41,900/-, at residential rate on the land which was actually agricultural land in nature, by the accused Anand Sagar Sharma the then SDM-cum-CALA-Hoshiarpur, opting illegal means and mode.

9. That when the accused/petitioner made accused Anju aggarwal receive the compensation amount of Rs. 4,45,41,900/-. by illegal means through his son- in-law accused Anand Sagar Sharma (the then SDM-cum-CALA Hoshiarpur). Thereafter, the accused/petitioner received bribe of Rs. 7

lakh through accused Ganesh Tuli who is further friend of his friend accused Ajay kumar. It is pertinent to mention here that the accused Ganesh Tuli firstly got transferred Rs. 30,00,000/- from accused Anju Aggarwal on 30.04.2016 via her bank account no. 341601501598 (ICICI) to his bank account number 452102010002809 (UBI), and further from the same bank account number of accused Ganesh Tuli, the said bribe amount of Rs.7 lakh was received by petitioner Sunil Gupta in his bank account number 08742010000290(SBI)
(The copy of bank statement with these transactions attached as annexure- 9).

10. That it is pertinent to mention here that the accused/petitioner remained in regular touch with others who are accused and beneficiaries in this FIR even after grabbing the compensation amount as mentioned above. Accordingly, it is clear that the accused, in connivance and conspiracy with other accused grabbed the amount as mentioned above. In order to prove the same the call analysis of conversation between accused and others (accused) from 01/09/2021 to 01/09/2023 is attached herewith as annexure-10 whereas same described as following:-

Name and mobile No.	Conversation with		Total calls
Sunil Gupta (Father-in-law of Anand Sagar 98151-44244	Ajay Aggarwal	8427646965	423
	Anand Sagar Sharma	9814348303	223
	Prem Sagar Sharma (Father of Anand Sagar)	8558808302	17
		9876005939	09
	Ganesh Tuli	9815000949	07
	Vinay Aggarwal	8427010795	01

*11. **<u>Role of accused/petitioner Prem Sagar Sharma is described as following:-</u>***

*That the accused/petitioner is father of accused the then SDM-CALA, Hoshiarpur namely Anand Sagar Sharma. It is pertinent to mention here that in the course of illegal transaction accused/petitioner, in connivance and conspiracy with his son accused Anand Sagar Sharma (The then SDM-cum-CALA Hoshiarpur), his son and accused Anand Sagar Sharma's father in law accused Sunil Gupta and further friend of accused Sunil Gupta namely accused Ajay Kumar firstly helped sister-in-law of accused Ajay Kumar namely accused Anju Aggarwal in purchasing the agricultural land in village Khwaspur through accused Harpinder Singh with sale deed bearing No.1819 dated 22.06.2015 whereas accused Harpinder Singh mentioned here himself appeared at the time of said sale deed. **(The copy of sale deed is attached herewith as Annexure 5)"***

6. In the nutshell, allegations the petitioner(s) are that being father and father-in-law of the said SDM-Anand Sagar Sharma, they had received bribe of Rs. 7 lacs each through accused-Ganesh Tuli, who was friend of Ajay Kumar, another beneficiary and there is a bank transaction qua that. The said Ganesh Tuli got transferred Rs.30,00,000/- which received from Ms. Anju Aggarwal through his bank account to another account and similarly, he transferred Rs. 7 lacs from his that very account to Prem Sagar Sharma's account.

7. On the contrary, petitioner's counsel have shown a sale deed of Rs.7 lacs, according to which, petitioner had sold the land to Ganesh Tuli for a sum of Rs.7 lacs. Vide sale deed dated 27.06.2016. Photocopy of the sale deed was supplied to counsel for the State who has forwarded the same to the investigator.

8. Given above and coupled with the fact that main accused-Anand Sagar Sharma has been granted bail, petitioners are also entitled to bail.

9. In the nut shell, modus operandi of Anand Sagar Sharma was that he was aware of the fact of land acquisition and because of the same, he asked his near and dear/property dealer to purchase land in an unauthorised colony at cheaper rates, which was an agricultural land and lateron, he converted the land from the agricultural to residential and consequently they received massive amount of compensation through his henchman Ganesh Tuli etc. Such open and shut case of money laundering the government must consider it for violation of offences punishable under Prevention of Money Laundering Act 2002, if not already done. Even previously the investigators were happy to file a closure report and it was at the intervention of the trial Court that further investigation was conducted and now prosecution has found evidence in the same case in which they proceeded to close the case. This Court is not giving any directions to the State government to refer or not to refer this matter for violation of Prevention of Money Laundering Act but it is for the State to take conscious decision at their own level, if not already taken. It is further clarified that observation made hereinabove are only for the purpose for decision of bail petition and will not refer in any other during the trial or any other further investigation of any other case, if initiated.

Given above, interim order dated 06.12.2023 is made absolute and petitions are allowed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

19.12.2023
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.