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

CRM-M-28-2024
Reserved on: 04.03.2024
Pronounced on: 13.03.2024

Neeraj Mehta ...Petitioner

Versus

State of Punjab …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.P.S. Sidhu, Advocate
for the petitioner.

Mr. Gurpartap S. Bhullar, Asst. AG, Punjab.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
13	02.11.2020	Vigilance Bureau, FS-1, Mohali, District SAS Nagar Mohali	409, 420, 465, 466, 467, 471, 120B IPC and Sections 7, 7A of PC (Amendment) Act 2018

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.

2. In paragraph 17 of the bail petition, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1	78	21.04.2022	406, 420 & 120B IPC	Phase-1, SAS Nagar, Mohali

3. Prosecution’s case is being extracted from the reply dated 10.01.2024, which reads as under: -

> “That a Case FIR No. 13 dated 02.11.2020, u/s 409, 420, 465, 466, 467, 471, 120-B IPC, 7, 7A Prevention of Corruption Act, 1988 as amended by Prevention of Corruption Act, 2018, Police Station Vigilance Bureau, Flying Squad-1, Punjab at Mohali was registered after conducting a detailed enquiry in which it was found that the revenue officials in connivance with other accused persons entered a mutation no. 1767 dated 05.09.2016 and transferred Shamlat Land of Village Soonk in favour of many persons who were not khewatdars of that village. They have also illegally transferred excess land/share in favour of many persons beyond their eligibility. This case was registered against the following accused persons:

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1. Varinderpal Dhoot, Naib Tehsildar
2. Raghbir Singh, Kanoongo
3. Iqbal Singh, Patwari
4. Gurnam Singh Numbardar
6. Balbir Singh
7. Tarsem Lal
8. Jaswinder Singh s/o Sarja Singh, r/o Village Paindpur
9. Gurpreet Singh s/o Gurmail Singh r/o Village Mastgarh
10. Manvir Singh s/o Swarn Singh
11. Kabal Singh s/o Karnail Singh r/o Village Rupana, Distt. Sh. Muktsar Sahib.

3. That during investigation following 9 persons were nominated as accused in this case:

1. Arjun Kansal S/o Late Banta Singh, R/o H.No. 217, Sector-21-A, Chandigarh.
2. Neeraj Mehta S/o Surinder Nath Mehta, R/o 1276, Sector-18, Chandigarh(The present petitioner).
3. Gurtej Singh S/o Surinder Singh, R/o village Soonk, tehsil Kharar, Distt. SAS Nagar.
4. Ram Krishan S/o Chittru, R/o village Soonk, tehsil Kharar, Distt. SAS Nagar. (Untraced).
5. Pal Singh S/o Ram Pratap, R/o Village Soonk, tehsil Kharar, Distt. SAS Nagar.
6. Kulwinder Singh S/o Hajara Singh, R/o Village Bairmajra, Tehsil Derabassi, Distt. SAS Nagar.
7. Jasmer Singh S/o Gurwant Singh, R/o Village Soonk, tehsil Kharar, Distt. SAS Nagar.
8. Gurmail Singh S/o Gurbant Singh, R/o Village Soonk, tehsil Kharar, Distt. SAS Nagar. (Died on 16.09.2020).
9. Sunita W/o Deepa, Gurbant Singh, R/o Village Soonk, tehsil Kharar, Distt. SAS Nagar Now R/o Kiddi Afghani, tehsil Chamkaur Sahib, Distt. Rupnagar.

4. That during the investigation of this case it has been established that mutation no. 1767 dated 05.09.2016 was registered, in which about 117 Acre Shamlat Land of Village Soonk was wrongfully entered, mentioning excess share to some Khewatdars or mentioning shares to the persons who were not the Khewatdars/residents of the village. It was also established during investigation that heavy amount of bribe was distributed for entering/sanctioning of this mutation and further distributing land shares in excess to the persons and even to the persons who were not Khewatdar/Residents of the village. Out of this 117 Acres land, about 103 Acres land has further been sold to the different buyers directly by the khewatdars or on the basis of GPA/Sub-GPA's. Out of this 103 Acres land, sold more than 22 Acres of land than the increased shares were found to have been sold, (thus, 22 Acres land exists nowhere). The revenue record pertaining to Shamlatland in question like

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registries/vasikas/GPAS/Sub-GPAs were taken on record during the investigation.

The following accused were arrested by the Vigilance Bureau, Punjab on 02.11.2020.
1. Varinderpal Dhoot Naib Tehsildar.
2. Iqbal Singh Patwari.
3. Sham Lal Property Dealer.
4. Gurnam Singh Numberdar

The Status of remaining Accused persons in this case is as under:

5. Jaswinder Singh S/o Sarja Singh R/o Village Paindpur, Tehsil Kharar, Distt. Mohali (Arrested on 26.12.2020 and granted bail on 08.03.2021 by the Hon'ble Court Mohali.)
6. Gurpreet Singh S/o Gurmail Singh R/o Village Mastgarh, Distt Mohall. (Joined investigation and Bail Granted on 08.10.2021 from Hon'ble Punjab and Haryana Highcourt.)
7. Raghbir Singh, Kanugoo S/o Banta Singh R/o Village Chakla Tehsil Morinda, Distt, Rupnagar. (Joined investigation and bail Granted on 08.10.2021 from Hon'ble Punjab and Haryana High Court.)
8. Balbir Singh S/o Gurmail Singh R/o Village Khuda Ali Sher, Chandigarh. (Joined investigation and Bail Granted on 01.11.2021 from Hon'ble Punjab and Haryana Highcourt.)
9. Tarsem lal S/o Dharampal R/o Village GhudaMajrian Tehsil Kharar, Distt. Mohali. (Joined investigation and Bail Granted on 10.01.2022 from Hon'ble Punjab and Haryana High Court.)
10. Kabal Singh S/o Karnail Singh R/o Rupana Distt. Sri Mukatsar Sahib. (Joined investigation on dated 07.06.2021.)
11. Manvir Singh S/o Swaran Singh R/o Rupana Distt. Sri Mukatsar Sahib. (Joined investigation on dated 07.06.2021.)
12. Arjun Kansal S/o Banta Singh R/o House no 217, Sector-21-A Chandigarh, (Joined investigation on dated 15.03.2021, 25.03.2021, 05.04.2021)
13. Neeraj Mehta S/o Surindernath Mehta R/o House No. 1276, Sector-18 Chandigarh. (Joined investigation on dated 02.03.2021)(The present petitioner).
14. Gurtej Singh S/o Surinder Singh, R/o village Soonk, tehsil Kharar, Distt. SAS Nagar. (Joined investigation on dated 31.05.2021.)
15. Ram Krishan S/o Chittru, R/o village Soonk, tehsil Kharar, Distt. SAS Nagar. (Untraced)
16. Pal Singh S/o Ram Pratap, R/o Village Soonk, tehsil Kharar, Distt. SAS Nagar. (Joined investigation on dated 31.05.2021.)
17. Kulwinder Singh s/o Hajara Singh, R/o Village Bairmajra, Tehsil Derabassi, Distt. SAS Nagar. (Joined investigation on dated 06.08.2021).
18. Jasmer Singh S/o Gurbant Singh, R/o Village Soonk, tehsil Kharar, Distt. SAS Nagar. (Joined investigation on dated 31.05.2021.)

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19. Gurmail Singh S/o Gurbant Singh, R/o Village Soonk, tehsil Kharar, Distt. SAS Nagar. (Died on 16.09.2020)
20. Sunita W/o Deepa, Gurbant Singh, R/o Village Soonk, tehsil Kharar, Distt. SAS Nagar Now R/o Kiddi Afghani, tehsil Chamkaur Sahib, Distt. Rupnagar. (Joined investigation on dated 17.08.2021)

5. That during the course of investigation, the report of SDM Kharar dated 06.01.2021 was taken on record, wherein it is mentioned that A.D.C (D) SAS Nagar passed order that villagers of village Soonk are declared owner of disputed land as per their possession and share. The share of each villager was not mentioned in order dated 01.07.2016. Therefore, a "Tareeka takseem" would have been prepared and got approved from competent authority, but accused Iqbal Singh Patwari entered the mutation no. 1767 dated 05.09.2016 without adopting due procedure and without getting the sanction from the competent authority. He further entered the shares of different owners without any approval. He also entered the names of some persons in the revenue record who were not having any share at all. In connivance with other accused, Raghbir Singh Kannongo (Accused) verified these shares of all khewatdaras in one day i.e. on 06.09.2016 and sent to Naib Tehsildar in haste. On 28.09.2016, Varinder Pal Singh Dhoot. Naib Tehsildar sanctioned the same without adopting due procedure.

That during investigation it was also found that Sham Lal (Accused) had prepared an agreement between villagers and one Ramesh Saini wherein it was agreed that all the expenditure of the case, pending in the Court of A.D.C. (D) Mohali will be borne by Ramesh Saini, in lieu of which the villagers will hand over 20 Acres of land to him. The said agreement was signed by Sham Lal and Gurnam Singh Numberdar as witnesses but it was not signed by Ramesh Saini. Ramesh Saini son of Jiwa Singh recorded his statement u/s 161 Cr.P.C. that accused Sham Lal was known to him and on 25.04.2016 he handed over Rs. 1 Crore to Sham Lal in House No. 217 Sector 21, Chandigarh, in the presence of Arjun Kansal, owner of the house and Sham Lal further handed over the said amount to Arjun Kansal. After receiving money Arjun Kansal stated that he will get the decision of land in favour of villagers of village Soonk. On 18.12.2020 Ramesh Saini recorded his statement before Illaqa Magistrate u/s 164 Cr.P.C. in which he corroborated the same.

6. That during the investigation, it has transpired that as per the revenue record, accused-petitioner Neeraj Mehta had no share in the land of village Soonk, but 50 acres of land vide sale deed no. 3457 dated 06.01.2017 and 20 acres of land vide sale deed no. 4286 dated 29.03.2027 (70 acres total) were transferred in the name of Anand Khosla s/o Om Parkash Khosla on the basis of Sub-GPA by Jaswinder Singh and Gurpreet Singh in connivance with accused-petitioner Neeraj Mehta. The amount of Rs.87,50,000/- each (Total amount Rs.1,75.00.000/-) was transferred in the bank accounts of Jaswinder Singh and Gurpreet Singh by Anand Khosla from his PNB's Account no. 1418000100210651 on the instructions of the accused/petitioner Neeraj Mehta.

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That during the investigation, the amount of Rs. 50,00,000/- was also found to be transferred in the account of accused/petitioner Neeraj Mehtaby Anand Khosla from his PNB's Account no. 1418000100210651 through RTGS No. PUNBRS2017010913690113. Apart from this, from the statement of Anand Khosla it was also transpired that accused-petitioner Neeraj Mehta also received Rs. 5,00,000/-in cash from him fraudently.

The accused/petitioner Neeraj Mehta joined the investigation on 02.03.2021 and challan against him was presented on 27.03.2023 in the Court of Special Judge, Mohali.

7. That Challan/Chargesheet u/s 173 Cr.P.C of the following accused was submitted in the Court of Special Judge Mohali on 28.01.2021:

1. Varinderpal Dhoot Naib Tehsildar.
2. Iqbal Singh Patwari.
3. Jaswinder Singh.
4. Sham Lal Property Dealer.
5. Gurnam Singh Numberdar.

It is to mention here that Vigilance Bureau, Punjab investigated matter in-depth and had collected lot of evidence against the accused persons. On the basis of investigation, persons found involved in crime were also booked. After completion of investigation, supplementary Challan/Chargesheet u/s 173(8) Cr.P.C against the following accused was submitted in the Court of Special Judge Mohali on 27.03.2023:

1. Balbir Singh S/o Gurmail Singh.
2. Gurpreet Singh S/o Gurmail Singh.
3. Neeraj Mehta S/o Surinder Nath Mehta (The present petitioner).
4. Gurtej Singh S/o Surinder Singh.
5. Pal Singh S/o Ram Pratap.
6. Kulwinder Singh S/o Hajara Singh.
7. Jasmer Singh S/o Gurwant Singh.
8. Sunita W/o Deepa, Gurbant Singh.
9. Tarsem lal S/o Dharampal.
10. Arjun Kansal S/o Banta Singh.
11. Raghbir Singh, Kanugoo S/o Banta Singh.
12. Gurmail Singh S/o Gurbant Singh. (Died on 16.09.2020).

In view of above, it is pleaded that the matter has been investigated thoroughly and after completion of investigation, the challan has been submitted in the Court of Special Judge Mohali. The case is fixed for 25.01.2024 before the trial Court.

4. Petitioner's case is being taken from the petition, which reads as follows: -

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(3). That present case has been registered by the Vigilance allegations department therein that with the enquiry conducted against Varinderpal Singh Dhoot Naib Tehsildar, Iqbal Singh, Patwari andRaghbir Singh Kanungo that total area ofshamlat deh, petitioner of VillageSeunk (Soonk) was measuring 11380 kanals 8marlas, Maal (Revenue Tax) of which wasbeingassessedatRs 27 /- but after acquisition of certain land for the purpose of construction of Jayanti Dam andNew Colony, rest of the area came to be10365 kanals and 19 marlas, Maal (revenuetax) of which Rs 26 /- (2600 shares) andthat of all the owners of village wasRs.530/- (Rs.1/- against 396.4 share) .Accordingly, revenue tax of each owner/Khewatdar was multiplied by 396.4 and areawas so divided, of which, mutation No.1767was prepared by Iqbal Singh Patwari, butduring that process, Raghbir Singh Kanungoentered more shares that actual shares ofkhewatdars whereas, shares of some of thekhewatdars whereas, shares of some of thekhewatdars were decreased. Besides, someof the persons, who had no share in theland, were also allotted shares therefrom.This fact was verified by Tehsildar, SAS Nagar (Mohali) during enquiry conducted by him and a difference of 15934.32 shares, 796 kanals 14.32 marlas (99 acres 04 kanals 14.32 marlas) was found. It is further case of the prosecution that more share in land, than increased shares, were found to have been further sold. Ram Kishan and others were amongst those khewatdars, whose share were increased and sold by Iqbal Singh, Patwari, Raghbir Singh Kanungo, Varinder Pal Singh Dhoot- Naib Tehsildar, Sham Lal property dealer and Gurnam Singh Numberdar, in connivance with land mafia by deceitfully taking power of attorneys, Balbir Singh, Tarsem Lal, Manbir Jaswinder Singh, Gurpreet Singh, Kabal Singh, Singh were also amongst the persons, who had connived with Iqbal Singh and others for selling shares of khewatdars further, for monetary gain.

That Iqbal Singh and others had taken lakhs of rupees as bribe for carrying out this work. Numberdar Gurnam Singh had played a role of go between for these transactions. From the statements of Nishan Singh, Nanki Devi and Harbhajan Singh etc. recorded during enquiry proceedings, it surfaced that Varinderpal Singh Dhoot through Gurnam Singh and Sham Lal property dealer, for the purpose of entering mutation/ Girdawari in their names, received lakhs of rupees as bribe.

(4). That in the present case, the petitioner is not named in FIR and there allegations against him. After completion of investigation, challan has been presented by the investigating officer and in first challan there are no allegations against the petitioner. Thereafter the officials of Vigilance Bureau submitted the supplementary challan in which the name of the petitioner is figured. Now the petitioner has been summoned through non- bailable warrants by the ld. trial court.

(5). That in the supplementary challan, it is alleged that Gurpreet Singh agreed to sell land to the petitioner and petitioner got executed two sale deeds i.e. sale deed No.3457 dated 6.1.2017 and sale deed No.4286 dated 29.3.2017 in favour of one Anand Khosla s/o Om Parkash Khosla. The relevant extract of report under section 173 (8) Cr.P.C. is reproduced here below:-

> Neeraj Mehta son of Surinder Nath Mehta, resident of H.NO.1276, Sector 18 Chandigarh.

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> "Narinder Singh @ Baba facilitated agreement of accused Gurpreet Singh with Neeraj Mehta qua 70 acres land. Out of which, the sale consideration of 50 acres of land was fixed as Rs.2,50,000/- per acre and qua 20 acres of land,sale consideration was fixed as Rs.4,50,000/- per acre. Out of which, sale deed of 50 acres of land got executed Neeraj Mehta through Anand Khosla s/o Om Parkash Khosla vide sale deed NO.3457 dated 6.1.2017 and consideration of this land, Rs.25 lakhs on 3.1.2017 was transferred to account of Gurpreet Singh in PNB Branch Dhanas, U.T. Chandigarh and Rs.25,00,000/- in account of Jaswinder Singh. Then on 9.1.2017, amount of Rs.37,50,000/- in account of Gurpreet Singh and Rs.37,50,000/- in account of Baba Jaswinder Singh was deposited from the account of Anand Khosla. On 29.3.2017, Neeraj Mehta got executed sale deed No.4286 dated 29.3.2017 qua 20 acres of land from Narinder Baba. Then on 14.03.2017, amount of Rs.25,00,000/- was transferred in account of Gurpreet Singh at Punjab National Bank, Branch Dhanas and amount of Rs.25,00,000/- was deposited in account of Jaswinder Singh Baba. Qua this 20 acres of land, the deal was finalized for Rs.4,50,000/- per acre but Narinder Baba and Neeraj Mehta got executed this sale deed for amount of Rs.50,00,000/-, but the amount was transferred in account of accused Gurpreet Singh and Baba Jaswinder Singh as 45/45 lakhs each. Narinder Mehta and Baba Narinder Singh got executed sale deed of value of Rs.50,00,000/-. On the basis of these facts, recommendation were made to Chief Vigilance Bureau office to nominate Neeraj Mehta in the present case."

5. I have heard counsel for the parties and gone through the pleadings and its analysis would lead to the following outcome.

6. On 01.02.2024, this Court had made the following observations:

> "[5]. The petitioner's counsel submits that initially, on 28.01.2021, when the police report was initially filed, the petitioner was not named, and later, when the second police report was filed against 12 additional accused on 27.03.2023, the petitioner was named as an accused. He submits that since the petitioner was initially not named and being prosecuted, to deny bail at such a belated stage would not serve any purpose.At this stage, State counsel submits that the investigator was meticulous and cautious, and they arraigned them as an accused only when they got satisfactory evidence against them. Doubting the honesty and good work of investigators and taking it as a factor against them would demotivate them; State counsel submits that the petitioner is not entitled to bail merely because he was not named initially. An analysis of this argument would lead to the conclusion that if the petitioner is given bail just on the ground that the investigator never wanted to launch prosecution against a person unless they collect strong evidence against them, is normally not a ground for bail because in such a scenario, bail is granted, it would demotivate the investigating agency.
>
> [6]. The petitioner's next argument is that 50 acres of land vide sale deed No.3457 dated 06.01.2017 and 20 acres of land vide sale deed

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> No.4286 dated 29.03.2017, a total of 70 acres were transferred in the name of Anand Khosla based on Sub GPA by Jaswinder Singh and Gurpreet Singh. Petitioner has attached both the sale deeds as Annexures P-2 & P-3, which Jaswinder Singh and Gurpreet Singh executed, and money was transferred into their accounts by Anand Khosla, and there is no evidence of any criminal conspiracy against the petitioner. The petitioner argues that he is entitled to bail on parity with co-accused Jaswinder Singh and Gurpreet Singh. The State does not deny that both the persons, i.e., Jaswinder Singh and Gurpreet Singh, were granted anticipatory bail. A Co-ordinate Bench of this Court vide order dated 08.10.2021 passed in CRM-M-8241-2021 had granted anticipatory bail to Gurpreet Singh, and similarly, this Court vide order dated 18.12.2023 had granted interim bail to Kulwinder Singh in CRM-M-63344-2023.
>
> [7]. The State opposes the bail because, as per the investigation, Anand Khosla transferred a sum of Rs.50 lacs to the petitioner's account. The petitioner has handed over a certificate given by Manish Gupta on behalf of Sudhanshu Manish & Associates Chartered Accountants, which bears the date 29.01.2024. A photocopy of the certificate be placed in file, and the original be handed over to the State's counsel. As per the certificate, petitioner Neeraj Mehta took a loan of Rs.50,00,000/- from Anand Khosla on 09.01.2017. State counsel seeks some time to verify the certificate above. Let the investigator verify the certificate."

7. On 13.02.2024, petitioner filed an affidavit in the Court that the certificate which he filed in the Court was given to him by Anand khosla. After hearing the parties, this Court passed the order and relevant portion of the same is reproduced as under:-

> "Counsel for the State has shown a certificate, in which Manish Gupta had made a statement that he has not handed over/signed any certificate dated 29.01.2024 as mentioned in para 7 of the order dated 01.02.2024.
> However, counsel for the petitioner submits that he is also giving an affidavit as per which, it was Anand Khosla who had supplied this certificate issued by Manish Gupta in terms as mentioned in the said affidavit. Petitioner's counsel on instructions from the petitioner-Neeraj Mehta, who is present in the Court, further submits that petitioner has never done any financial irregularities and he will demonstrate the same by not only handing over his bank account statement w.e.f. 01.04.2016 upto 31.03.2021 and also to demonstrate his honesty, he will voluntarily declare his assets on the format, which this Court is applying in similar cases under Prevention of Corruption Act. He further submits that petitioner shall not claim such declaration as self incrimination , violation of Article 20/21 of Constitution of India or any other fundamental right/law.
> Let the State verify this matter in detail and they are also permitted to investigate Anand Khosla in this regard."

8. Counsel for the State submits that they have verified the fact from Anand Khosla, who had denied handing over any such certificate, and his statement now forms part of

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the investigation.

REASONING:

9. The petitioner, Neeraj Mehta, had no share in the land of Village Seonk but 50 acres of land vide sale deed No.3457 dated 06.01.2017, 20 acres of land vide sale deed No.4286 dated 29.03.2017 (70 acres of land total) were transferred in the name of Anand Khosla based on Sub-GPA by Jaswinder Singh and Gurpreet Singh in connivance with accused-petitioner/Neeraj Mehta. An amount of Rs.87,50,000/- each (Total amount of Rs.1,75,00,000/-) was transferred into the bank accounts of Jaswinder Singh and Gurpreet Singh by Anand Khosla from his PNB's Account on the instructions of present petitioner. A particular allegation against the petitioner is that he received Rs.50,00,000/- from Anand Khosla from his PNB Account.

10. A perusal of the petition does not refer to a single averment as to why a sum of Rs.50,00,000/- was transferred by Anand Khosla to the petitioner. To answer this , the petitioner had handed over a certificate, which was found to be incorrect. In this reference, this Court had asked the concerned DySP to file a specific reply. Consequently, a reply dated 19.02.2024 was filed by the concerned DySP, which reads as follows: -

> (2). That during the course of hearing in above said petition on 07.02.2024, this Hon'ble Court was pleased to pass the following order:-
>
> "*In compliance to the order dated 01.02.2024, counsel for the petitioner has handed over the affidavit to counsel for the state,who further passed it to investigator SI Palwinder Singh.*
> *They seek some time to verify the said affidavit.*
> *May do so by the next date positively.*
> *List on 13.02.2024.*
> *Interim order to continue.*"
>
> In compliance with this order of the Hon'ble Court, for the verification of the certificate dated 29.01.2024 (Annexure R-1) issued under signatures of Manish Gupta, Manish Gupta (Chartered Accountant) S/o Pawan Kumar Gupta R/o 2522, Sector -70 Mohali was called in the office of Vigilance Bureau, Flying Squad-1. Sector 68, Mohali and he gave written statements that he (Manish Gupta) had never signed, issued/handed over any certificate dated 29.01.2024 to Anand Khosla or the petitioner-Neeraj Mehta. The true copies of the statements of Manish Gupta

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are annexed as Annexure R-2 for the kind perusal of the Hon'ble Court.

(3). That during the course of hearing in above said petition on 13.02.2024, this Hon'ble Court was pleased to pass the following order:-

"*Counsel for the State has shown a certificate, in which Manish Gupta had made a statement that he has not handed over/signed any certificate dated 29.01.2024 as mentioned in para 7 of the order dated 01.02.2024.*

However, counsel for the petitioner submits that he is also given an affidavit as per which, it was Anand Khosla who had supplied this certificate issued by Manish Gupta in the terms as mentioned in the said affidavit. Petitioner's counsel on instructions from the petitioner-Neeraj Mehta, who is present in the court, further submits that petitioner has never done any financial irregularities and he will demonstrate the same by not only handing over his bank account statement w.e.f 01.04.2016 to 31.03.2021 and also demonstrate his honesty, he will voluntarily declare his assets on the format, which this court is applying in similar cases under Prevention of Corruption Act. He further submits that petitioner shall not claim such declaration as self incrimination, violation of Article 20/21 of Constitution of India of any other fundamental right/law.

Let the state verify this matter in detail and they are also permitted to investigate Anand Khosla in this regard........."

In compliance with this order of the Hon'ble Court, for the verification of the matter, Anand Khosla S/o Late Sh. Om Parkash Khosla R/o House No. 554, Sector- 8B, Chandigarh was called in the office of Vigilance Bureau, Flying Squad-1, Sector 68, Mohali and recorded his statement, he stated that the petitioner-Neeraj Mehta is his old acquaintance and he (Anand Khosla) file the returns of his companies but the affidavit presented by him (petitioner-Neeraj Mehta) regarding handing over the certificate of Manish Gupta to the petitioner-Neeraj Mehta by him (Anand Mehta) is completely false. Neither he obtained this certificate from Manish Gupta nor he handed over this certificate to the

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petitioner- Neeraj Mehta. The true translated copy of the statement dated 14.02.2024 of Anand Khosla is annexed as Annexure R-T/3 for the kind perusal of the Hon'ble Court."

11. This matter was argued extensively on nine dates, and in addition to those arguments, I have also gone through the bail petition. A perusal of the bail petition does not refer to any averment about the petitioner's receipt of Rs.50,00,000/-. However, this fact has been reproduced in para 5 in the supplementary challan. Later on, the explanation was introduced alone, and a certificate of Chartered Accountant was produced, which was found to be forged during the investigation. At that stage, the petitioner showed that it was handed over to him by Anand Khosla. Even this fact was found to be incorrect. Petitioner has prima facie tried to take false defence to get the discretion of anticipatory bail. The certificate Neeraj Mehta had shown was allegedly issued by Manish Gupta and was not found to be issued by the said Manish Gupta Chartered Accountant. Petitioner's case is that it was a loan that has been prima facie falsified. Petitioner's stand is that it was given, the fact that the investigation conducted so far points out that Anand Khosla has explicitly mentioned that he did not hand over the certificate, which is shown to have been issued by Manish Gupta who also refutes such fact and further that there is no explanation for the transfer of Rs.50,00,000/- in petitioner's account, it is not a case for anticipatory bail.

12. In Maulana Mohd Amir Rashadi v. State of U.P., (2012) 3 SCC 382, Hon'ble Supreme Court holds,

> [10] It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most of the cases ended in acquittal for want of proper witnesses or pending trial. As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.

13. Considering each bail petition of the accused with a criminal history throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR, the prosecution stands withdrawn or the

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filed a closure report, cannot be included. Although crime is to be despised and not the criminal, for a recidivist, the contours of a playing field are marshy, and the graver the criminal history, the slushier the puddles.

14. An analysis of the allegations and evidence collected, coupled with the previous criminal history, does not warrant the grant of anticipatory bail to the petitioner.

15. In Sumitha Pradeep v Arun Kumar CK, 2022 SCC OnLine SC 1529, Supreme Court holds,

> [16]. … We have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

16. In State of Gujarat v. Mohanlal Jitamalji Porwal (1987) 2 SCC 364, Supreme Court holds,

> [5]. ....The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest....."

17. In State rep. by CBI v. Anil Sharma, (1997) 7 SCC 187, Supreme Court holds,

> [6]. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would

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> elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.

18. InJai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379, Supreme Court holds,

> [19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. [See D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434, State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213 and Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305].

19. In Y.S. Jagan Mohan Reddy v. CBI (2013) 7 SCC 439, Supreme Court holds,

> [34]. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.
> [35]. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.

20. In P. Chidambaram v. Directorate of Enforcement, 2019 9 SCC 24, Supreme Court holds,

> [70]. We are conscious of the fact that the legislative intent behind the introduction of Section 438 Cr.P.C., 1973 is to safeguard the individual's personal liberty and to protect him from the possibility of being humiliated and from being subjected to unnecessary police custody. However, the court must also keep in view that a criminal offence is not just an offence against an individual, rather the larger societal interest is at stake. Therefore, a delicate balance is required to be established between the two rights - safeguarding the personal liberty of an individual and the societal interest. It cannot be said that refusal to grant anticipatory bail would amount to denial of the rights conferred upon the appellant under Article 21 of the Constitution of India.

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21. In <u>Central Bureau of Investigation v. Santosh Karnani</u>, Cr.A 1148 of 2023, dated 17-04- 2023, Supreme Court, in an FIR registered under sections under Sections 7, 13(1) and 13(2) of the Prevention of Corruption Act, 1988, holds,

> [24]. The time−tested principles are that no straitjacket formula can be applied for grant or refusal of anticipatory bail. The judicial discretion of the Court shall be guided by various relevant factors and largely it will depend upon the facts and circumstances of each case. The Court must draw a delicate balance between liberty of an individual as guaranteed under Article 21 of the Constitution and the need for a fair and free investigation, which must be taken to its logical conclusion. Arrest has devastating and irreversible social stigma, humiliation, insult, mental pain and other fearful consequences. Regardless thereto, when the Court, on consideration of material information gathered by the Investigating Agency, is prima facie satisfied that there is something more than a mere needle of suspicion against the accused, it cannot jeopardise the investigation, more so when the allegations are grave in nature.
>
> [31]. The nature and gravity of the alleged offence should have been kept in mind by the High Court. Corruption poses a serious threat to our society and must be dealt with iron hands. It not only leads to abysmal loss to the public exchequer but also tramples good governance. The common man stands deprived of the benefits percolating under social welfare schemes and is the worst hit. It is aptly said, “Corruption is a tree whose branches are of an unmeasurable length; they spread everywhere; and the dew that drops from thence, Hath infected some chairs and stools of authority.” Hence, the need to be extra conscious.

22. In the background of the allegations and the light of the judicial precedents mentioned above in the facts and circumstances peculiar to this case, the petitioner fails to make a case for anticipatory bail.

23. Any observation made hereinabove is neither an expression of opinion on the case's merits, neither the court taking up regular bail nor the trial Court shall advert to these comments.

<u>Petition dismissed</u>. Interim orders, if any, stand vacated. All pending applications, if any, also stand disposed.

(ANOOP CHITKARA)
JUDGE

13.03.2024
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Whether speaking/reasoned: Yes
Whether reportable: **YES**.

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