

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-547-2024 (O&M)
Reserved on: 13.02.2024
Pronounced on: 22.02.2024

Jasvinder Singh
... Petitioner(s)
Versus
State of Punjab
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. G.S. Brar, Advocate and
Mr. Shivam Vashisht, Advocate
for the petitioner(s).

Mr. ADS Sukhija, Addl.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
1	10.02.2017	Economic Offences Wing, Vigilance Bureau, Ludhiana	409, 420, 467, 468, 471, 201, 120-B IPC and Sections 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

1. The petitioner who was in custody since 18.11.2023 for illicitly purchasing land to enable its acquisition on higher rates in connivance with Anand Sagar Sharma, SDM, Hoshiarpur, has come up before this Court by filing the present petition under Section 439 CrPC seeking regular bail.
2. Vide order dated 23.1.2024, this Court has granted interim bail to the petitioner subject to compliance of certain conditions and one such condition was that the petitioner shall voluntarily declare his assets and shall not claim such declaration as violative of Article 20/21 of the Constitution of India or any other fundamental right/law.
3. Case of the prosecution is taken from reply dated 23.1.2024 filed by way of affidavit of concerned DySP, 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 Banau 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 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, 3.0, 30 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?
 - e) 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 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.OR.TH 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 1 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 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 in the said 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- 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 intentionally and with malafide kept the said Draft 3A schedule pending in his office for four months and fraudulently changed the khasra numbers of five villages namely Khwaspur/Piplanwala, Dagana Kalan, Dagana Khurd, Hardokhanpur and Bassijana 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 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 report from the revenue department was also obtained by the SIT during the course of investigation and as per the said report ated 21/09/2023 there is no colony/residential area in the said land described Soy 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 los 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 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 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 Sunder 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

7. **Specific role of the accused/petitioner Jaswinder Singh:**

That the accused/petitioner was working as revenue (Patwari) of villages Daganu kalan, Dagana khurd and Hardekhanpur at Hoshiarpur. That the accused/petitioner is retired now. The accused petitioner is aware of the rules and working of the revenue department and in particular being Parwari, he was aware of the law laid down in the National Highway Act 1956 under section 3D(2) as explained in the para no.5 above. That after the proceedings of 3D/3G (notification) the accused/petitioner, in connivance and conspiracy with co-accused Anand Sagar Sharma (the then SDM-cum-CALA Hoshiarpur), co-accused and the then Tehsildar namely Baljinder Singh, co-accused and the then Nayab Tehsildar namely Manjit Singh and other co-accused approved the mutation and

got transferred various lands from actual owners to the new land owners who are also co-accused in this FIR. That the accused/petitioner got transferred a huge amount (in crores) in the name of co-accused who became new land owners by the outcome of this conspiracy and grabbed the huge compensation amount. This way the accused/petitioner having mala fide intention and mens rea cheated and defrauded actual owners who were not aware of the land acquisition proceedings going on. The accused/petitioner caused a huge financial loss to the government exchequer.”

4. It remains undisputed that the main accused namely Anand Sagar Sharma, the then SDM, Hoshiarpur has been granted anticipatory bail by this Court.
5. Given the nature of allegations against the petitioner and his pre-trial custody of around 3 months, this Court is of the opinion that there would be no justification for further incarceration of the petitioner.
6. Given above, the interim order dated 23.01.2024 is made absolute, subject to the condition that the petitioner shall not violate any terms and conditions mentioned in the said order and in case the petitioner does so, the State shall file an application for cancellation of bail before this Court without any delay.

Petition allowed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

February 22, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No