

CRM-M-7032-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7032-2024
Reserved on: 05.03.2024
Pronounced on: 13.03.2024

Pawan ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Alok Mittal, Advocate for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
915	22.11.2022	City Panipat, District Panipat	420, 467, 468, 471, 409, 120-B IPC and Sections 7/13 of Prevention of Corruption Act 1988

1. The petitioner, who is posted as a Tax Branch Officer in the office of Municipal Corporation, Panipat, apprehending arrest in the FIR captioned above on the allegations of causing financial loss to the department by under charging development fee in collusion with brokers and Property owners and issuing No Due Certificates, had come up before this Court under Section 438 CrPC seeking anticipatory bail by filing the present petition.
2. Vide order dated 09.02.2023, the petitioner was granted interim bail, which is continuing till date.
3. Prosecution’s case is taken from the reply dated 14.02.2024, which reads as follows:-

“That on 22/11 / 2022 Deputy Inspector Raj Singh, Chief Minister Flying Squad, Haryana Division, Karnal has filed a complaint No. 805/CMFS/KNL d1-22-11-2022 to the Station House Officer, Police Station City, Panipat, District Panipat. The contents of complaint are reproduced below for the ready reference of the Hon'ble Court as under:-

"That information was received through secret source that the Tax Branch Officer in the office of Municipal Corporation, Panipat have caused loss of development fee to the corporation during the months of April, May and June 2022, in collusion with the brokers and property owners, by preparing fake status report and without the signatures of the competent authorities, issued no dues certificate of Application No. 0370517657, 0370502650, 0370517780, 0370519129 with unauthorized ID. After confidential investigation and informing the higher officials, on 15.11.2022, SI Raj Singh reached Municipal Corporation Office, Panipat. Jitender Singh, Deputy Commissioner, Samyapal, Regional Taxation Officer and Vinod Kumar, Tax Superintendent Office, Municipal Corporation, Panipat, who were present in the office, were informed about the situation and team was prepared for surprise inspection of the related records. After giving information to the local Police Station City, Panipat, ASI Dharmendra Singh No. 33/Panipat, reached to the spot and was included in the team. During surprise inspection, file no. 1058 dated 26.04.2022, online application no. 0370517657, File No. 418 dated 07.04.2022, Online Application No. 0370502650, file no. 1060 dated 31.03.2022, online application no. 0370517780 and online application no. 0370519129 were inspected by the officers in the team. On careful examination of files of Application No. 0370517657, 0370517780 and 0370519129, it was found that the applicants had paid the development fee and property tax of their property. But it was not recorded in the records of the Municipal Corporation. An application was made to get it rectified. The officers were found to have disregarded the instructions on the above applications and completed the process without the signature of the authorized officer. On inspection of the file number 8018 dated: 03.03.2022 by the joint team, it was found that the applicant Savitri Devi, W/o Sh. Shyam Lal, R/o Mahadev Colony, Panipat, had filed an application to correct the name and area of my property in the Municipal Corporation records from 110 square yards to 88.50 square yards. On which the report of Naib Tehsildar and Junior Engineer, Municipal Corporation, Panipat was sought by the tax branch as per rules. It was

mentioned on the application by Patwari, Municipal Corporation, Panipat that Savitri Devi, W/o Sh. Shyam Lal, is the owner of area 41 square yards as per Jamabandi for the year of 2015-16 in Khewat No. 1335. Patwari's report dated 14.03.2022 has been signed by Kanungo and Naib Tehsildar, Municipal Corporation, Panipat. After this, on 15.03.2022, the Tax Assistant had marked the difference in the area of land in the report of Patwari /Kanungo/ Naib Tehsildar. Below this, a report dated 16.03.2022 was mentioned regarding informing the applicant by the Tax Superintendent. After which Patwari. In the report of Kanungo/Naib Tehsildar and Tax Assistant, the 41 square yards mentioned in the report were changed to 88 square yards by cutting over it. Ved Ram Saini, Naib Tehsildar, has stated in his statement that the small signature present on the cutting was not made by him or by the subordinate Patwari. But the file has been updated by the junior programmer without the approval of any competent authority. After this, it was found by the joint team that the applicant Savitri Devi had made application no. 0370502650 on 10.05.2022 for the No Dues Certificate (NDC) of the said property. On which, ignoring the earlier objections raised by the Tax Assistant, Superintendent of Taxes and the Assistant District Attorney and without the report of the concerned Junior Engineer, the process of Level-1 and Level-2 was completed. However, it was mandatory to take the signature of the junior engineer and district town planner. At that time, Pawan Kumar, tax assistant ward, then junior programmer Dharambir Singh, tax superintendent and Shiv Kumar, then assistant district attorney, working on the above posts, in connivance with Savitri Devi, W/o Shri Shyam Lal, R/o Mahadev Colony, Panipat, did the cutting on the area of the pre-application property and the earlier report of the tax superintendent dated 16.03.2022 was discarded. Report of ownership area of 88.5 square yards was prepared which was more than the report of area of 41 square yard prepared by Naib Tehsildar/ Patwari's area. Therefore, fraudulently, No Dues Certificate (NDC) was issued for 88.5 square yards of residential area instead of 41 square yards in the name of Savitri Devi. Whereas a report regarding the ownership area of 41 square

yards of land was given by the Naib Tehsildar, Municipal Corporation in the name of Savitri Devi. Savitri Devi was successful in selling her above-mentioned property. Hence, Pawan Kumar Tax Assistant/ Ward Clerk, the then Junior Programmer Dharmbir Singh, Tax Superintendent, Shiv Kumar, the then Assistant District Attorney and Savitri Devi wife of Sh. Shyam Lal, R/o Mahadev Colony, Panipat, in mutual connivance, cut the ownership area of 41 square yards to 88.5 square yards without any document. Fake short signatures were made on the cutting of the property area. Incorrect NDC of 88.5 square yards of property area was issued. On the basis of which case under sections 420, 467, 468, 471, 120-B IPC be registered against the above and legal action be taken against them. Beside this, Investigation should also be done regarding application numbers 0370517657, 0370517780 and 0370519129. If any other officer/employee is found to be involved during the investigation, he should also be included in the investigation of the case and if other facts besides the above also come to light during the investigation of the case, then try to include him in the investigation as well.

On the basis of above said facts and circumstances of the case, a formal FIR No. 915 dated 22.11.2022 section 420, 467, 468, 471, 120-B IPC was registered at Police Station City, Panipat.

(ii) That after registration of FIR, the investigation of the case was initiated by Sh. Balraj Singh, the then Inspector/ Station House Officer, Police Station City, Panipat and notice u/s-91 of Cr.P.C was given to the Municipal Corporation office for taking relevant records. Thereafter, the investigation of the case was carried out by Inspector Zakir Hussain/Station House Officer Police Station City, Panipat who recorded the statement of witnesses.

(iii) That on 29.08.2023, the records of file number 0370502650. (Savitri Devi wife of Shyamlal), file number 0370519129, file number 0370517657 and file number 03707780 were sent to the Intelligence Department, Haryana, Panchkula through SI Kuldeep, Police Station City, Panipat.

(iv) That on 31.08.2023, Statements of witnesses were recorded and copy of report no. 41 dated 15.11.2022 was obtained from M.H.C, Police Station City, Panipat and was taken into custody by

the police.

(v) That on 05.09.2023, record was taken from Municipal Corporation, Panipat regarding the joining record of Shiv Kumar, record regarding the extension of appointment period of Sh. Dharambir, Tax Superintendent and Naib Tehsildar, posting of Patwari Ram Singh and Kanungo Virender Kumar and others. Record regarding file number 03700950099 were taken from Municipal Corporation, Panipat. On 29.09.2023, Suman W/o Pankaj R/o Maha Dev Kalauni, Panipat was investigated and on 02.10.2023, Sandeep Kumar S/o Sh. Sahabdas R/o Hanuman Kalauni, Panipat was investigated.

(vi) That on 07.10.2023, Baby wife of Inderpal R/o Mahadev Colony, Panipat was joined in the investigation of the case and Registry No. 8036 dated 15.11.2021 was taken into police possession vide which land of 66 sq. yards was transferred from Neetu Saini wife of Satyam Verma to Baby W/o Inderpal. Photocopy of registry, aadhar card and colour photographs in which baby is standing on the plot was taken into police possession as evidence. Statement of witnesses was recorded.

(vii) That on 16/10/2023, file number 0370517780 (Photocopy of papers of Nandlal son Parmanand), File number 0370502650 (Photocopy of papers of Savitri wife Shyam Lal File number), 0370517657 (Photocopy of papers of Bharat Bhushan son Ramnarayan), File number 03700519129 (Photocopy of documents of Santosh Devi wife Rameshwar) were taken into police possession as evidence from the clerks of Municipal Corporation, Panipat.

(viii) That on 18.10.2023, Records regarding summary of maker/checker were taken from Municipal Corporation, Panipat.

(ix) That on 27/10/2023, record was taken from Jaibir clerk from Municipal Corporation, Panipat.

(x) That on 2/11/2023, the record of file number 03701670446 of baby wife Inderpal was taken from Municipal Corporation Panipat.

(xi) That on 07/01/2023, record of electricity bill of plot measuring 88.5 yards, Mahadev Colony, Panipat was taken from Prem Singh.

(xii) That on 20/12/2023, the report of report of spot was taken

from Riku JE, Municipal Corporation, Panipat.

(xiii) That on 14/1/2024, accused Dharambir Singh, S/o Shri Rambhaj, R/o Hari Singh Colony, Panipat was arrested in due course of law on finding sufficient evidence against him. Section 409 IPC and Sections 7, 13 of Prevention of Corruption Act was added in the case as per the nature of crime.

(xiv) That on 16.01.2024, the investigation of the case was transferred to the deponent for further investigation.

(xv) That on 12.02.2024, the petitioner was joined in the investigation of the case and he confessed to his role in crime at the time of joining. However, he was released on police bail in compliance of order dated 09.02.2024 passed by Hon'ble High Court in the present petition. Thereafter, petitioner was re-joined in this case on 13.02.2024 and on 13.02.2024, he submitted his affidavit and affidavit of his spouse in compliance of order dated 09.02.2024 passed by this Hon'ble Court. He also amended his earlier disclosure statement and admitted to his role in crime. True Copy of Disclosure Statement dated 13.02.2024 is annexed herewith as Annexure R-1.

(xvi) That the further investigation of the case is still under progress. There are total seven accused in the case till date. The arrest/joining of accused Savitri W/o Shyam Lal, Deepak Sharma, Anil Asija, Neeraj, Ajay is still pending in the case.

3. The role of the petitioner in the crime, as per the material brought on the police file, is that he was posted as Assistant Clerk, Municipal Corporation, Panipat. The petitioner in conspiracy with other accused changed the report from 41 sq. yards land to 88.50 sq. yards area. The petitioner passed the file although there is cutting on the report which are visible from the naked eyes. The petitioner also disclosed that he had received Rs. 10,000/- for passing the file. The petitioner has confessed to his role in his disclosure statement, Annexure R-1.

4. That the petitioner has joined in the investigation of the case on 12.02.2024. The custodial interrogation of the petitioner is not required at this stage as the petitioner is cooperating with the investigation of the case.

It is pertinent to mention here that the petitioner rejoined the

investigation of the case on 13.02.2024 and also submitted his affidavit and affidavit of his spouse in compliance of order dated 09.02.2024. True Copy of Affidavits are annexed herewith as Annexure R-2.

5. That the petitioner has not been found to be involved in any other FIR as per the police Records verified by the investigating officer pertaining to him.

6. That keeping in view the nature of accusation, severity of punishment in case of conviction, nature of the supporting evidence and reasonable apprehension of petitioner tampering with the witnesses and apprehension of the petitioner absconding or fleeing from justice, he has no ground for concession of regular bail by filing this petition on false, baseless and wrong allegations, which have no value in the eyes of law. However, police assure to abide by all directions as would be passed by this Hon'ble Court as per circumstances of present case accordingly. Hence present petition is liable to be dismissed.

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

5. Petitioner's counsel submitted that on 03.03.2022, application was moved by one Savitri Devi wife of Shri Shyam Lal for correction of name and area of the property in the MC records from 110 sq. yards to 88.50 sq. yards. On 14.03.2022, the concerned Patwari of MC, Panipat noted that the aforesaid Savitri Devi is the owner of 41 sq. yards of land. On 15.03.2022, petitioner reported qua the difference in the share on the original application below the reports prepared by the Patwari/Kanungo/Naib Tehsildar (Annexure P-2) and alterations were made to the aforesaid report outside the knowledge of the present petitioner for supposed undue gains. On 10.05.2022, Savitri Devi Moved an application for issuance of No Dues Certificate for the aforesaid property. On 15.11.2022, Deputy Inspector Raj Singh, Chief Minister Flying Squad, Haryana Division, Karnal conducted a confidential investigation on receipt of secret information qua preparation of fake status reports and issuance of No Dues Certificate by the Tax Branch Officer of the Municipal Corporation, Panipat thereby causing loss of development fee to the Corporation during the months of April-June 2022. On 22.11.2022, complaint bearing No.805/CMFS/KNL dated 22.11.2022 was submitted to the SHO PS Panipat city, District Panipat on the basis of aforesaid investigation and FIR

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No.915 dated 22.11.2022 was registered. On 28.05.2021, Shiv Kumar, ADC MC, Panipat was assigned the duty of a Checker on the NDC Portal. The petitioner neither concerns with the aforesaid portal nor had any access to the said portal. On 15.12.2021, the aforesaid Shiv Kumar was given additional charge for issuance of No Objection Certificate. Counsel for the petitioner submits that bare perusal of the investigation report as well as the FIR in question would show that no offence under Sections 7 and 13 of the Prevention of Corruption Act, 1988 can be made out against the present petitioner since the prosecution has failed miserably to prove on record any monetary transaction or undue gains received by the present petitioner as alleged from Savitri Devi. Mere bald allegation of receipt of Rs. 10,000/- in cash has been leveled against the present petitioner.

6. State counsel opposes the bail and argues that the petitioner being Tax Branch Officer in the Office of MC, Panipat has caused financial loss of development fee to the corporation during the months of April to June, 2022, in collusion with brokers and property owners, by preparing fake status report and without the signatures of competent authority, issued No Dues Certificate of application No. 0370517657, 0370502650, 0370517780 and 0370519129 with unauthorized ID. On one file No. 8018 dated 03.03.2022 by applicant Savitri Devi to correct the name and area of her property from 110 sq. yards to 88.50 sq. yards, the petitioner fraudulently issued No Dues Certificate for 88.50 sq. yards instead of 41 sq. yards in the name of Savitri Devi, whereas as per report regarding her ownership given by the Naib Tehsildar, her area of land was of 41 sq. yards. Hence, the petitioner, in collusion with other co-accused issued No Dues Certificate qua 88.50 sq. yards instead of 41 sq. yards by making cutting and over-writings. The petitioner is alleged to have received bribe of Rs. 10,000/-. It has come to the notice of Investigating Officer that the petitioner used to deal with 25 to 30 files everyday and usually charged Rs. 10,000/- per file as bribe.

7. It is strange that the Municipal Corporation, Panipat did not take any remedial measures despite drainage of money of taxes. Their system needs to be fixed and for that this Court cannot send the petitioner for custodial interrogation. Even if this Court sympathetically denies bail to the petitioner it would not imply that the person who would substitute the petitioner on the same seat, would not indulge in the similar offence for the reason that the problem lies with the system deployed by Municipal Corporation, Panipat. Moreover, petitioner has already joined the investigation and as per para No.4 of the reply filed by the State, petitioner's custodial interrogation is not required.

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8. Given above, present petition is allowed and interim order dated 09.02.2023 is made absolute. The concerned DySP to send a copy of the FIR and this order to the concerned Secretary, Municipal Corporation, Panipat to take remedial measures, who will further inform the head of department in the Government of Haryana about remedial measures which he proposes to take or has taken. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

13.03.2024
anju rani

Whether speaking/reasoned:	Yes
Whether reportable:	No.