

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10210-2024 (O&M)
Date of order: 13.03.2024

Satish Kumar Sood
... Petitioner(s)
Versus
State of Punjab
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
Present:- Mr. Jasraj Singh, Advocate
for the petitioner(s).
Mr. Karunesh Kaushal, AAG, Punjab.

ANOOP CHITKARA, J.

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

1. Apprehending arrest in the FIR captioned above, the petitioner had come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 37 of the bail petition, the accused declares that they have no criminal antecedents.
3. Vide order dated 27.2.2024, this Court had granted interim protection to the petitioner which is continuing till date.
4. Facts of the case are being extracted from the reply filed by the State by way of affidavit of concerned DySP, which read 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 124 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 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 intentionally and with mala fide 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 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 Anandsagarsharma 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 (NowNH-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 Satish Kumar Sood is described as following:**

Name of Rajwant Kaur and Surjeet Singh were mentioned as seller of the land on the sale deed bearing 4451 dated 18/11/2015 which registered in the name of other co-accused namely Prateek Gupta. It is pertinent to mention here that the said Surjeet Singh (seller) was not present at the time of registration of above mentioned sale deed. But in spite of this fact accused/petitioner stood as witness in the above said sale deed in connivance and conspiracy with other co-accused.(The copy of sale deed 4451 dated 18/11/2015 is attached as annexure-5)."

Reasoning:

5. The petitioner was granted interim protection on 27.2.2024 and during the interregnum, there is no allegation that he had hampered the investigation, or despite being called to join the investigation, he did not appear before the investigator. Moreover, as per the reply filed by the State, the role attributed to the petitioner in the present FIR is that he stood as witness in the sale deed in connivance with co-accused.

6. Given the penal provisions coupled with the *prima facie* analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability

for pre-trial incarceration at this stage.

7. Given above, the present petition is allowed and interim order dated 27.2.2024 is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

March 13, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes