

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11314-2024 (O&M)
Date of order: 08.04.2024

Prem Raj Singh
... Petitioner(s)
Versus
State of Haryana
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
Present:- Mr. Kunal Dawar, Advocate
for the petitioner(s).
Mr. Rajat Gautam, Addl.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
21	5.9.2023	Anti Corruption Bureau, Faridabad	120-B, 166, 167, 201, 218, 406, 409, 420 IPC and Section(s) 7, 13(1)(a) r/w Section 13(2) of the Prevention of Corruption Act, 1988.

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, seeking bail.
2. Vide order dated 14.3.2024, this Court considering the nature and veracity of allegations as well as the custody, granted interim bail to the petitioner primarily on the ground that the petitioner along with his spouse had voluntarily agreed to declare their assets and also to comply with other conditions mentioned in the said order.
3. Today, counsel for the petitioner, on instructions, submits that they have complied with the conditions contained in the said interim order, declaring his assets as well as of his spouse and also submits that they would not claim it self-incriminatory or violative of their rights under Articles 20/21 of the Constitution of India, Indian Evidence Act or any other law in force.

4. However, State's counsel has opposed the bail on the grounds that investigation is pending and the petitioner may tamper with the evidence and pressurize the witnesses. Reply filed by the State in Court is taken on record.

5. I have heard counsel for the parties and gone through the record.

6. Prosecution's case is being extracted from reply dated 2.4.2024 filed by the State by way of affidavit of the concerned DySP, which reads as under:-

1. The above mentioned case in FIR No.21/2023 was registered in PS/ACB/FBD on 05/09/2023 under section 120-B, 166/167/201/218/ 406/409/420 IPC and section 7, 13(2) R/W 13(1)(a) of PC ACT 1988 against 12 accused persons including the petitioner herein pursuant to order No.52/45/2020-5-VII dated 12/7/2023 of the Chief Secretary to the Govt. of Haryana, on the basis of complaint received from Shri Anil Kumar, HPS, Additional Superintendent of Police/ACB/Faridabad on completion of Enquiry No. 06/2021/PS /ACB/FBD, which in turn was registered in compliance to the order of the Chief Secretary to the Govt. of Haryana issued vide letter No. 52/45/2020-5-Vigilance-II dated 08/12/2021.
2. The allegations in brief as contained in the FIR are that the accused persons named in the FIR including the petitioner by committing the offence of Criminal Misconduct and other offences under the Indian Penal Code as indicated in para 1 above, awarded a tender to contractor Satbir Singh for installation of 590 iron grills in the divider road from crematorium, Ballabgarh to Tigaon chowk bye pass by deliberately splitting the work in parts to keep the tender amount below Rs. 1 crore so as to avoid seeking of approval of the HQ Chandigarh. It is further alleged that such 6 works which were awarded to the contractor Shri Satbir Singh was of the total value of Rs.27,52,000/- (447000+460000+530000 +440000+ 442000+ 433000) (details of six works) which were dishonestly and with an ulterior motive of causing wrongful gain to themselves and the contractor were enhanced and revised to Rs. 5,80,47,574/- (9917905+9991325+9311949+9678988+9718103+9429304)\ without actually getting any work executed and thus cheated and caused corresponding wrongful loss to the Govt. exchequer.
3. That it was further revealed that during enquiry conducted by the Executive Engineer, Ballabgarh Zone, Municipal Corporation Faridabad vide his letter no. 86 dated 21.01.2022 had informed this office that as per record of Ballabgarh Zone for the year 2015, one work order no. MCF/EE- IV/2015/424 dated 11.09.2015 was issued for RMC, Divider and Grill on Tigaon Road. No other work order has been issued for fixing of iron grill on Crematorium, Ballabgarh to Tigaon Chowk, Bye Pass Road and it has also come in to the notice during the investigation that the works which were decided to be done by way of preparing fake orders, had already been completed earlier vide work order no. 424 dated 11.09.2015, thus the accused in connivance with the other co-accused has committed fraud by getting prepared the fake work orders in 2018 for the work which had already been done earlier in 2015. Copy of the letter/work order of the Executive Engineer (B), Municipal Corporation Faridabad is attached as Annexure R- I (Colly).
4. That during the course of investigation, the Executive Engineer, Municipal the Corporation, Faridabad, Ballabgarh Zone vide letter bearing no. MCF/E.E-4/2023/554 dated 14.09.2023 has informed the Investigating Officer that as per available record work orders bearing 1436,1444,1445,1447,1449 and 1456 dated 27.11.2018 were not found to

be issued from their office. The copy of the said memo is attached as Annexure R-II (COLLY). It is pertinent to mention here that it is clear from this version that the Petitioner in connivance with the other accused has prepared fake/forged record to give undue benefit to themselves and cause undue loss to the Government Exchequer.

5. That it is further submitted that the petitioner herein does not deserve the grant of Regular Bail under section 439 Cr.P.C. on account of the fact that the petitioner is an habitual offender and apart from this case is already involved in 2 other cases of PS/ACB/FBD (FIR No. 11/2022, and 23/2022) wherein his adverse role in abusing his official position for causing undue pecuniary advantage for self and the same contractor in similar fashion and causing corresponding loss of substantial amount running into crores of rupees to the Govt. exchequer in collusion with other officers and officials of MCF has come to notice. In the instant case, he has already been charge-sheeted before the competent court and the trial is in progress. The Ld. Court of Additional Faridabad, only after going Sessions Judge, through the records and appreciating the gravity of the offence against the petitioner rejected his regular bail application.”

7. The petitioner was granted interim protection on 14.3.2024 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 and furthermore, the petitioner along with his spouse has voluntarily declared their assets with an undertaking that for declaring assets, they would not claim any incrimination or violation of their rights under Articles 20/21 of the Constitution of India, Indian Evidence Act or any other law in force. Considering the facts and circumstances of the case and pre-trial custody of the petitioner, which is about 4½ months and cannot be said to be less, his further pre-trial custody may not be justified.

8. Given above, the petition is allowed and interim order dated 14.3.2024, is made absolute. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

April 08, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No