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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15040-2024
Decided on: 10.04.2024

Sunil Dutt

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Yagsimant Attri, Advocate for the petitioner.

Mr. Kanav Bansal, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
02	09.02.2024	Vigilance Bureau Range, Amritsar	7 of Prevention of Corruption (Amendment) Act 2018

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, had come up before this Court under Section 439 CrPC seeking regular bail.
2. On 03.04.2024, when the matter was listed for first time, this Court asked the State to file response and after considering the nature of allegations and other factors, this Court granted interim bail and one of the reason of granting bail was that the petitioner had voluntarily agreed to declare his assets, which was mentioned in para 13 of the bail order.
3. Petitioner’s counsel submits that they had handed over the affidavits to the Investigator and voluntarily complied with the order of declaring assets and it is submitted that they shall not claim such declaration as self incrimination, violation of Article 20/21 of Constitution of India or any other fundamental right/law. Counsel further submits that the custodial investigation would serve no purpose. The investigator may verify such assets if required and proceed in accordance with law, if any anomalies found. The concerned investigator is further directed to forward one original copy of the affidavit to the petitioner’s employer within two weeks from today.
4. The State’s counsel does not dispute the contention made by counsel for the petitioner, but opposes the bail.

5. Prosecution's case is being taken from the reply dated 09.04.2024, which reads as follows:-

"That the brief and relevant facts of the case are that the aforesaid FIR No. 02 dated 09.02.2024 was registered against the petitioner on the basis of the direction of the Senior Superintendent of Police, Vigilance Bureau, Range Amritsar on the basis of the legal opinion from the Deputy District Attorney (Legal), Vigilance Bureau, Amritsar pursuant to the suggestion made by the then Deputy Superintendent of Police, Vigilance Bureau, Unit Tarn Taran by submitting a detailed Supplementary Enquiry Report dated 03.02.2024 after verifying the allegations of the Gursahib Singh son of Sh. Karaj Singh resident of village Jalloke, Tehsil Patti, District Tarn Taran, made by him in his complaint (registered as Toll Free Complaint No. 61/2022) lodged on the Toll Free Number of the Vigilance Bureau, Punjab on 14.10.2022, alleging therein that the petitioner being Patwari of the circle Kot Budha had taken a bribe of Rs. 42,000/- from him for transferring the girdwari in his name and complainant was having a video of the same as evidence.

4. That after the receipt of the aforesaid complaint, the office of the Chief Director, Vigilance Bureau, Punjab forwarded the same to the office of the Senior Superintendent of Police, Vigilance Bureau, Range Amritsar for the verification of the allegations made by the complainant Gursahib Singh and submission of a detailed report thereafter. The Senior Superintendent of Police, Vigilance Bureau, Range Amritsar entrusted the inquiry of the aforesaid complaint to the then Deputy Superintendent of Police, Vigilance Bureau, Unit Tarn Taran for the verification of the allegations of the complainant and submitted a detailed report thereafter in his office.

5. That the then Deputy Superintendent of Police, Vigilance Bureau, Unit Tarn Taran submitted a detailed inquiry report dated 17.10.2023 in the office of the Senior Superintendent of Police, Vigilance Bureau, Range Amritsar vide Memo No. 1562/VB/Tarn Taran dated 17.10.2023 after verifying the allegations of the complainant Gursahib Singh after recording the statements of him (Gursahib Singh), petitioner and other material witnesses and examining the evidence presented by both the parties, reporting therein that during the inquiry proceedings, it has been found that the complainant Gursahib Singh did not file any application in the office of the Tehsildar, Patti for the transferring the girdawari of the purchased land in his name and he was also not in physical possession of the purchased land. It was further reported that in the video recording presented by him in a pendrive, there was no utterance of the word 'Girdawari' but the petitioner admitted that he has to return Rs. 30,000/- to the complainant Gursahib Singh and as such, it was evident that the complainant Gursahib Singh wanted to record the girdawari of the land in his name by bribing the petitioner without being in possession of the purchased land in question. It was suggested by the then Deputy Superintendent of Police, Vigilance Bureau, Unit Tarn Taran to register FIR against both the petitioner and the complainant Gursahib Singh after obtaining a legal opinion from the Deputy District Attorney (Legal), Vigilance Bureau, Amritsar.

6. That the aforesaid Enquiry Report submitted by the then Deputy Superintendent of Police, Vigilance Bureau, Unit Tarn Taran, was returned by the office of the Senior Superintendent of Police, Vigilance Bureau, Range Amritsar vide letter No. 125/VB/Tarn Taran dated 03.02.2024 for the clarification of the certain facts pointed by the Deputy District

Attorney (Legal), Vigilance Bureau, Amritsar for giving his legal opinion. Thereafter, the then Deputy Superintendent of Police, Vigilance Bureau, Unit Tarn Taran submitted a Supplementary report dated 03.02.2024 for the clarification of the objections reporting therein that the complainant Gursahib Singh could not present any proof with respect to filing of any application in the office of the Tehsildar, Patti for the transfer of girdawari of the purchased land in his name and he was also not found in physical possession of the purchased land in question. However, in the video recording presented by the complainant Gursahib Singh in a pendrive, his co-sharer Avtar Singh is shown saying to the petitioner "You demanded money for giving the same to the Tehsildar and we gave you Rs. 30,000/-" and then the petitioner replies to aforesaid Avtar Singh "See Member sahib, whether the work is done or not, I gave, or did not give, your Rs. 30000 / is lying with me, which I owe to you, now tell me what else I can do beyond that". The deponent further reported that it was proved during the inquiry conducted by him that the petitioner had taken Rs. 30000 / from the complainant Gursahib Singh and his co-sharer Avtar Singh as a bribe and suggested for the registration of FIR against him after obtaining a legal opinion from the Deputy District Attorney (Legal), Vigilance Bureau, Amritsar.

7. That during the course of the aforesaid enquiry, the statement of the complainant Gursahib Singh was recorded, who alleged in his aforesaid statement that in September 2019, he along with Avtar Singh son of Sohan Singh had jointly purchased land measuring 3 acres for total consideration of Rs. 5,50,000/- per acre situated at the village Jalloke from Balwinder Kaur wife of Nirmal Singh resident of Mamdot, District Ferozepur, who had inherited the said land from her father Harnam Singh. The said was under cultivating possession of Mohinder Singh son of Ishar Singh, resident of Sabhra, District Tarn Taran on rent. He further alleged that he and Avtar Singh had paid the entire consideration amount to Balwinder Kaur and mutation was sanctioned in their names thereafter, they approached petitioner being halka Patwari, who told them that verification will be conducted by Kanugo regarding girdawari for which they have to pay money and demanded Rs. 15,000/- but they (Gurshaib Singh and Avtar Singh) did not pay money and they returned home but after about one week, they again approached the petitioner and paid Rs. 12000/- to him, who assured that Girdawari will be transferred in their names but it was not transferred in their names and in March 2022, they again approached the petitioner, who told them that kanugo did not agree and now the Tehsildar will conduct the spot inspection and girdawari will be transferred in their names but they have to pay Rs. 50,000/- for that purpose and then, they had paid Rs. 30000/- to the petitioner but despite receiving a sum of Rs. 42,000/- as illegal gratification from them, the girdawari was not transferred in their names. He further alleged that again on 13.04.2022, they again met petitioner and requested to do their work as per the commitment and recorded the entire conversation between them and the petitioner on his mobile phone as evidence. The detailed facts mentioned in the aforesaid FIR No. 02 dated 09.02.2024 have been reproduced in its true translation attached with the petition as Annexure P-1, which may kindly be read as a part of this paragraph please as same are not repeated for the sake of brevity.

8. That after the registration of the FIR in question, an investigation of the case was initiated by Inspector Sharanjit Singh, Vigilance Bureau, Unit Tarn Taran, who arrested the petitioner on 09.02.2024 during the course of investigation.

9. That an Investigation Report/Challan under section 173 Cr.P.C has been submitted in the court of learned Judge, Special Court, Tarn Taran on

03.04.2024 against the petitioner. A total of 13 prosecution witnesses have been cited in the aforesaid Investigation Report/Challan. The learned Judge, Special Court, Amritsar has not yet framed Charges against the petitioner. Now, the next date of hearing is fixed by the learned trial court for 19.04.2024 for the appearance of the petitioner from the judicial custody and consideration on framing of Charges against him.

10. That the petitioner is not entitled to concession of regular bail in view of the seriousness of the allegations and the gravity of the offence committed by him. There is a strong apprehension that he can misuse the concession of a regular bail by way of influencing and inducing the prosecution witnesses with the use of unfair means.

11. That as per the record and information available at the Police station Vigilance Bureau, Range Amritsar, the petitioner is not found involved/nominated as an accused in any other criminal case, or declared a proclaimed offender in the present case.

Present Short reply by way of an affidavit is being submitted for the kind consideration of this Hon'ble Court by the deponent. The deponent undertakes to file a detailed reply/Status report/additional affidavit as per need and as per further order of this Hon'ble Court.

In view of the facts narrated above, it is prayed that the petition may be dismissed in the interest of justice."

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

7. Given the facts and circumstances peculiar to the case coupled with the fact that petitioner had voluntarily declared assets and considering nature of allegations and also the period of custody which is approximately two months, there would be no justification for further pre-trial incarceration.

Petition is allowed. Detailed interim order dated 03.04.2024, is made absolute. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

10.04.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.