

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-20687-2024
Decided on: 03.05.2024

Kulwinder Kaur ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Akashdeep Singh, Advocate and
Mr. T.P.S. Bawa, Advocate for the petitioner.

Ms. Swati Batra, DAG, Punjab (Through VC).

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
54	23.04.2023	Balongi, District SAS Nagar (Mohali)	13(2) of Prevention of Corruption Act r/w Sections 409, 420, 120B IPC

1. The petitioner apprehending arrest in the FIR captioned above, has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. Vide order dated 26.04.2024, State was asked to file reply and this Court had granted interim bail to the petitioner and the said order is continuing till date.
3. Petitioner’s counsel seeks bail on parity with co-accused Mohan Singh who was granted bail by this Court vide order dated 02.12.2023. Counsel further submits that custodial interrogation and pre-trial incarceration would cause an irreversible injustice to the petitioner and family. He further submits that the petitioner had already joined the investigation.
4. Status report by way of affidavit has been handed over by the State and the same is taken record. Counsel for the State by making reference to the status report, opposes the bail petition.

5. Prosecution's case is being taken from the status report dated 03.05.2024, which reads as under:-

"That with regard to the subject matter of the present petition, it is submitted that case/FIR No. 54 dated 23/4 / 2023 u/s 13 (2) of The Prevention of Corruption Act, 1988 and 409, 420, 120-B of Indian Penal Code was registered at PS Balongi, District SAS Nagar against Mohan Singh, Kulwinder Kaur (petitioner) and Jaspal Kaur after preliminary enquiry into the complaint bearing No.2063/steno dated 06/04/2023 received from Block Development and Panchayat Officer, Mohali by the SHO, PS Balongi, agreement with the said report by the then DSP, Sub Division Kharar-1, District SAS Nagar and approval of the same by the SSP, District SAS Nagar.

3. That the allegations levelled against the petitioner and his co- accused are that the aforesaid persons have passed the wrong resolution in Gram Panchayat Village Raipur, District SAS Nagar for allotment of 5-5 Marlas plots to ineligible beneficiaries and on verification of 13 beneficiaries of 5 marla plots at village Raipur, out of the said 13 beneficiaries, 12 beneficiaries were found to be ineligible and the report in this regard was sent to the Director, Rural Development and Panchayat Department, Punjab vide letter no.1569 dated 02.06.2022, but, the plots were allotted to all the aforesaid 13 beneficiaries. As per record of the Gram Panchayat, Raipur, the resolution of the Gram Panchayat of Village Raipur, vide which the aforesaid plots have been allotted, is bearing signatures of three Panches and Sarpanch, who have misused their official positions and allotted the plots to ineligible beneficiaries by giving them undue favour and have also misappropriated the Shamlat land of Village Raipur. Out of the aforesaid accused persons, former Panch Amarjit Singh has died and therefore, the present case/FIR was registered against the petitioner Kulwinder Kaur (former panch), Mohan Singh (former Sarpanch and present Panch), and Jaspal Kaur (former Panch).

4. That pursuant to the registration of FIR No. 54 (supra), the preliminary investigation was commenced by the officials of PS Balongi wherein, the record of the preliminary enquiry and other related record was taken on record. The notices under Section 41-A Cr.P.C. were issued to the accused Mohan Singh to join investigation on 17/05/2023, however, he refused to receive the same. The notices under section 41-A Cr.P.C. could not be served upon the accused Kulwinder Kaur (petitioner) and Jaspal Kaur as their respective houses were found to be locked. Thereafter, the husband of the accused Kulwinder Kaur (petitioner) namely Manjit Singh appeared before the SHO, PS Balongi on 12/06/2023 and produced a sworn affidavit of Kulwinder Kaur (petitioner) to the effect that she was innocent in the present case/FIR and was misled by accused Mohan Singh into signing the resolution. The said affidavit was taken on record. It is relevant to mention here that the accused Jaspal Kaur has died during the pendency of the investigation.

5. That thereafter on 18/07/2023, the investigation of the present case/FIR was transferred to the Vigilance Bureau, District SAS Nagar. On

17/08/2023, the accused Mohan Singh joined the investigation before the Vigilance Bureau in compliance of the order dated 09/08/2023 passed by this Hon'ble Court in CRM-M- 29548 of 2023, however, he did not co-operate with the investigation.

6. That in the meantime, the petitioner approached the Ld. Judge, Special Court, District SAS Nagar for grant of concession of anticipatory bail in the present case/FIR No. 54 (supra), which was dismissed by the Ld. Court by passing a detailed and well-reasoned order dated 05.04.2024.

7. That being aggrieved with the order dated 05.04.2024 passed by the Ld. Court, the petitioner has now approached this Hon'ble Court by way of filing the present petition for grant of concession of anticipatory bail in the present case/FIR No. 54 (supra), which came up for hearing before this Hon'ble Court on 26.04.2024 wherein, this Hon'ble Court had granted the interim protection to the petitioner subject to the condition that she will not keep more than one prepaid sim and to comply with the said condition within 15 days besides directing the deponent to direct all the telecom service providers to deactivate all prepaid SIM cards and prepaid mobile numbers issued to the petitioner, except the one that is mentioned as the primary number/ default number linked with the AADHAAR card and further that till the no objection from the concerned SHO, the mobile service providers shall not issue second pre-paid SIM/ mobile number in the petitioner's name.

8. That in compliance of the aforesaid orders passed by this Hon'ble Court, the deponent had directed the nodal officers of the telecom service providers namely Airtel, BSNL, Vodafone-Idea and Reliance Jio to deactivate all prepaid SIM cards and prepaid mobile numbers issued to the petitioner, except the one that is mentioned as the primary number/ default number linked with the AADHAAR card and further that till the no objection from the concerned SHO, the mobile service providers shall not issue second pre-paid SIM/ mobile number in the petitioner's name.

9. That thereafter on 28/4 / 2024 the petitioner joined the investigation of the present case/FIR No. 54 (supra), in compliance of the order dated 26/4 / 2024 passed by this Hon'ble Court in the present petition, however, she did not co-operate with the investigation and did not disclose anything about the illegal gratification obtained from the ineligible persons to whom, the 5-5 Marla plots were allotted against their entitlement nor did she get the recovery of requisite documents effected.

10. That it is relevant to mention here that the deponent is personally conducting the investigation of the present case/FIR No. 54 (supra) and is making all possible efforts and endeavors to arrest and gather evidence against the accused persons and to take the investigation of the present case/ FIR to its logical conclusion.”

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

7. In the entirety of facts and circumstances of the case and the fact that co-accused has already been granted bail, petitioner’s case is on same footing and she makes out a

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case for anticipatory bail and it is neither a case of custodial investigation nor pre-trial incarceration.

8. Given above, petition is allowed and interim order dated 26.04.2024 is made absolute. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

03.05.2024
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Whether speaking/reasoned:	Yes
Whether reportable:	No.