

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26257-2024
Reserved on: 08.08.2024
Pronounced on: 30.08.2024

Gagandeep Kaur and another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Pratham Sethi, Advocate
Mr. Harish Goyal, Advocate
Ms. Kanishk Swaroop, Advocate
for the petitioners.

Mr. Anurag Chopra, Addl. A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
4	08.03.2024	Vigilance Bureau Phase-1, District SAS Nagar	13(1) (a) r/w 13(2) of PC (Amendment) Act, 2018 and 409, 420, 465, 467, 468, 471, 120-B IPC

1. The petitioners apprehending arrest in the FIR captioned above have come up before this Court under Section 438 CrPC, seeking anticipatory bail.
2. In paragraph 8 of the bail petition, the accused declares that they have no criminal antecedents.
3. Facts of the case are being extracted from short reply dated 10.07.2024 filed by concerned DySP which reads as follows:-

“3. That the matter relates with allotment of high value industrial plots of PSIEC (Punjab Small Industry & Export Corporation) on lower rates than the actual market value (prevailing fixed rates for the given time) by officials/employees of PSIEC in connivance with the property dealers, in a wrongful manner for illegal gratification, in the name of their relatives/friends/acquaintances on fictitious addresses by way of failing the persons having requisite knowledge and eligible for allotment of said plots, in interview and delaying possession of allotted plots for years to come on the pretext of various

impediments in delivering vacant possession such as overhanging electrical wires, un-removed left over construction material and thereafter allotting the said plots to new persons on old rates by way of changing the date of allotment of said plots based on ante-dated partnership deed executed between the old fictitious allottees and the new comers for the determined share amongst them and thereafter transferring the 100% ownership in the name of such new shareholders in the partnership deed and in this manner causing wrongful financial loss to the tune of crores of rupees to the State Exchequer.

4. That during the course of vigilance enquiry No. 3 that was initiated on 04.04.2018, it was found that co-accused Surinder Pal Singh, the then Chief General Manager (Estate), PSIEC by misusing his official position based on his noting has got issued guidelines on 30.07.2003 from Arun Goyal, the then Managing Director PSIEC for permitting change of plot allotment date of plots wherein the possession has not been delivered for want of basic facilities. The said guidelines were got passed from board of directors on 08.02.2005. However, neither such guidelines were got notified from State Government nor any circular was issued to that effect. Based on said unapproved guidelines hundreds of plots were issued with change of allotment date, for illegal gratification/unjust gain. In the said manner, the period elapsed between the initial date of allotment and the subsequently changed date of allotment was treated as zero period for waiving off the applicable penal interest on the allottees. Similarly, plots were allotted on the rates as applicable at the time of initial allotment and not the revised rates applicable at the time of changed date of plot allotment. Thus, huge financial loss was caused to the State Exchequer, in the above said manner.

5. That furthermore, during inquiry co-accused Jaswinder Singh Randhawa, the then General Manager (Personnel), PSIEC was found to have got made fake allotment of plots in the name of his relatives/friends/acquaintances namely wife Gurpreet Kaur, nephew Binay Partap Singh. Parminder Kaur (wife of his personal acquaintance Shamsher Singh), Kewal Singh, Sukhraj Singh Damanpreet Singh son of Avtar Singh, Sukhpal Singh Sandhu, Ramanpreet Singh, Jasmeet Singh, Gurmail Singh and his daughter Gagandeep Kaur (present petitioners) and other unknown persons. Similarly, the co-accused Surinder Pal Singh, the then Chief General Manager (Estate), PSIEC who was responsible for interviewing the potential allottees for industrial plots of PSIEC, in connivance with other co-accused persons misused his official position for change of allotment and possession of industrial plots of PSIEC and helped co-accused Jaswinder Singh Randhawa in allotment of said industrial plots. Furthermore, the co-accused Savtej Singh, SDE, PSIEC to have got allotted industrial plot of PSIEC by preparing forged documents of his relative Gurtej Singh and getting transferred the requisite amount in the account of PSIEC from the bank account of his son Manroop Singh and Amandeep Singh. Besides, the other officials of PSIEC namely

Amarjit Singh Kahlon (Estate Officer), Vijay Gupta (Sr. Assistant), Darshan Garg (Consultant) acting in connivance with above named co-accused persons in fake allotment of aforesaid industrial plots of PSIEC and misplacing the files of some plots from the office of PSIEC, misused their official position in connivance with private persons, waving penal interest and extension fee in violation of applicable rules to the tune of Rs. 8,72,71,669/- and thereafter, having sold the said plots on market rates through private property dealers and in this manner having caused huge financial loss to the tune of crores of rupees to the State Exchequer.

6. That consequently, the case/FIR No. 04 dated 08.03.2024 under Section 13 (1) (A), 13 (2) of Prevention of Corruption Act, 1988 (as amended in 2018) was registered at Police Station Vigilance Bureau, Flying Squad-I, Punjab, SAS Nagar against above said accused persons Surinder Pal Singh, Jaswinder Singh Randhawa, Amarjit Singh Kahlon, Vijay Gupta, Darshan Garg, Avtar Singh, Parminder Kaur, Binay Partap, Kewal Singh, Gurpreet Kaur, Gurmail Singh and his daughter Gagandeep Kaur (present petitioners) and other co-accused persons based on aforesaid vigilance enquiry No. 3 dated 04.04.2018.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. Counsel for the petitioner submits that one Gurpreet Singh who is brother of petitioner No.1 and son of petitioner No.2 got an allotment of plot in 2011 in the name of M/s Beston Software Pvt. Ltd. from PSIEC. After 03 years, he had sold the plot but in 2015, Gurpreet Singh expired.

6. State has opposed the bail and has referred to following portions of the reply which reads as follows:-

“9. That apart from above, it has also come on record from the investigation made from co-accused persons Jaswinder Singh Randhawa and Surinder Pal Singh that the illegalities in allotments of plots of PSIEC are continuing since 1995 and by way of such illegalities over thousand plots have been allotted so far in the area of Amritsar, Ludhiana, Moga, SAS Nagar etc. The disclosed modus operandi adopted for such illegal allotments has been that the persons who have been applying for plot allotments were not given allotment and using addresses of such applicants, the co-accused persons Jaswinder Singh Randhawa, Surinder Pal Singh in connivance with their other co-accused persons used to get made payment of 10% amount of the total consideration for plot allotment through their close acquaintances and thereafter, by changing date of allotment for non delivery of possession, used to sell the same further on higher rates.

10. That during the course of further investigation the process for collecting original record of illegally allotted plots in question from PSIEC as made available was started for verification of the fact that whether allotments made were genuine or illegal and for finding out the beneficiaries of said illegal allotments, if any. So far, present owners of 18 plots have been identified and they are being associated in investigation for the purpose of obtaining details as to how and in what manner they have acquired ownership of said plots. Similarly, the record of 109 more plots the allotment of which is under suspicion is also being verified.

11. That based on verification of plot allotment made, co-accused Avtar Singh was arrested on 23.05.2024, for his role surfaced during the course of investigation in illegal allotment of Plot No.E-261, Phase VIII-B, Industrial Area, SAS Nagar (Mohali) got made in the name of Amandeep Kohri based on an antedated partnership deed prepared for M/s Sukhmani Enterprises between her and son of co-accused Avtar Singh namely Damanpreet Singh.

12. That during investigation conducted from co-accused Avtar Singh it came on record that he is property dealer and close associate of co-accused Jaswinder Singh Randhawa. He has acted in connivance with co-accused Jaswinder Singh Randhawa in wrongful allotment of Plot No.E-261, Phase VIII-B, Industrial Area, SAS Nagar (Mohali) in the name of his son Damanpreet Singh in the year 2004 and thereafter, in 2016 in preparation of ante-dated partnership deed in the name of Amandeep Kohri without her information, for transfer of said plot in her name on old rates of 2004 and in this manner, he derived unjust profit of Rs. 2,70,00,000/- from Amandeep Kohri. In that regard, statement of Amandeep Kohri and the property dealer Rakesh Mishra who had introduced and got effected the deal of Amandeep Kohri with co-accused Avtar Singh was recorded.

ROLE OF THE PETITIONER

27. That during the course of investigation it has come on record that originally Plot No.330-P, Phase-VIII-B, Industrial Area, Mohali was allotted in the name of M/s Beston Software Pvt. Ltd. on application from co-allottee father daughter Gurmail Singh and Gagandeep Kaur (present petitioners) on 21.11.2011 @ Rs. 11000/- per sq. yds. for a sum of Rs. 1,11,00,000/-.

28. That during the course of initial investigation Sarabjit Kaur sister of present petitioner Gurmail Singh has got recorded her statement that the address of her house no.172, Sector-41B, Chandigarh for aforesaid firm for plot allotment was used by the accused father daughter Gurmail Singh and Gagandeep Kaur, without her knowledge. But now, son of Sarabjit Kaur namely Babandeep Singh has got recorded his statement that the said fact was in knowledge and the sons of present petitioner Gurmail Singh namely Gurpreet Singh who was residing with them, had taken his consent before use of their address by his father and sister. As such,

it is yet to be determined during the course of investigation whether the address given was used genuinely.

29. *That during the course of further investigation it has come on record that the allotment of said plot in their name was liable to be cancelled in the year 2011 itself for non-payment and allotted afresh on revised rates. However, the allotment made was not cancelled. Later on, based on their application the said plot was transferred in the name of co-accused Jasmeet Singh presently residing in UK and the addresses given by said purchasers were not genuine.*

Evidence Against the petitioner

31. *That even though Sarabjit Kaur sister of present petitioner Gurmail Singh has denied that address of her house no.172, Sector-41B, Chandigarh for plot allotment in the name of aforesaid firm was used by Gurmail Singh and Gagandeep Kaur, with her knowledge and consent. However, now, her son Babandeep Singh has made statement that their address was used with his knowledge and he was informed in that regard by her cousin Gurpreet Singh son of Gurmail Singh. As such, it is yet to be determined during the course of investigation whether the address given was used genuinely."*

7. An analysis of the above arguments would clearly point out that the plot in question was taken by Gurpreet Singh who had expired in 2015. Although there is some money transaction in the account of the petitioners, but there is no evidence about malicious involvement, however for the purpose of deciding the bail, there is no evidence of malicious intent or criminal conspiracy.

8. Given above, the evidence collected against the petitioners is different from other co-accused, as such they are entitled to bail.

9. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioners makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

10. Given above, provided the petitioners are not required in any other case, the petitioners shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioners shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner’s complying with the following terms. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

13. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

14. **The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.**

15. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

16. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

17. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Jyoti Sharma

Whether speaking/reasoned:	Yes
Whether reportable:	No.