

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27313-2024
Reserved on: 08.08.2024
Pronounced on: 30.08.2024

Sukhpal Singh Sandhu ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.S. Rai, Sr. Advocate with
Mr. H.S. Oberoi, Advocate and
Ms. Rubina Virmani, Advocate
for the petitioner.

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

ANOOP CHITKARA, J.

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

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. In paragraph 27 of the bail petition, the accused declares that he has 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 (wife), Binay Partap Singh (cousin), Parminder Kaur (wife of his personal acquaintance Shamsher Singh), Kewal Singh, Sukhraj Singh Damanpreet Singh son of Avtar Singh, present petitioner Sukhpal Singh Sandhu, Ramanpreet Singh, Jasmeet Singh, Gurmail Singh and his daughter Gagandeep Kaur 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-1, 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, present petitioner Sukhpal Singh Sandhu 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 the present Petitioner herein is not a government official but is a private allottee who has no concern whatsoever with the claimed set of allegations or with any government official of PSIEC. The specific allegations leveled against the present petitioner were with regard to illegal allotment of Plot no. C-210 admeasuring 3500 Sq. yard which was initially allotted in the name of M/s Cossworth Partnership Firm. The documents with regard to applying for the said application of allotment were signed by two partners of the firm namely present petitioner and Parminder Kaur. The Petitioner along with other members of M/s Cossworth participated in the draw of lot held on 15.11.2011 and with their good luck they were allotted plot in question by following due legal procedure. The present Petitioner who is working in the IT field since last more than 20 years after huge harassment and humiliation got disheartened and relinquished his share in favour of Parminder Kaur in the year 2013.

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

“Role of the petitioner

16. That during the course of further investigation it was found that the Plot No.C-210, Phase VIII-B, Industrial Area, Mohali admeasuring 3500 Sq. yard that was originally allotted to present petitioner Sukhpal Singh Sandhu under the name of a fake and non existing firm on its given address namely M/s Crossworth Partnership

Firm, for IT Sector at the rate of Rs. 11000/- per sq. yard on 29.11.2011. For which deposit of 10 % amount at the time of allotment was got made through one Hardev Singh Jattana and nothing was paid thereafter, was subsequently got allotted by co-accused Jaswinder Singh Randhawa in the name of co-accused Parminder Kaur wife of Shamsher Singh (who is his relative and from his own village) by way of getting submitted an application on 22.01.2018 with Estate Officer PSIEC through present petitioner Sukhpal Singh Sandhu and Hardev Singh Jattana wherein they are cited as co-allottees' of aforesaid plot and have made request for transfer the same in the name of co-accused Parminder Kaur. Subsequently, the above said plot was found sold by way of bifurcation in four shares.

17. That however, the allotment application form was not having signatures of co-accused Parminder Kaur at the time of initial checking of aforesaid plot allotment file, but, when the file of said plot was called from PSIEC for inquiry the said application form was found containing signatures of co-accused Parminder Kaur. In addition, the allotment of aforesaid plot was got made by the co-accused Parminder Kaur and present petitioner Sukhpal Singh Sandhu, Hardev Singh Jattana in connivance with co-accused Jaswinder Singh Randhawa in her name at the rate of initial allotment i.e. Rs. 11,000/- per sq. yds. as existed in the year 2011, whereas, in accordance with rules for nonpayment the said initial plot allotment was liable to be cancelled and thereafter, the said allotment was to be made on the rates revised in the year 2013 i.e. at the rate of Rs.13, 750/- per sq. Yard.

18. That as such during investigation it was found that Hardev Singh Jattana, co-accused Parminder Kaur and present petitioner Sukhpal Singh Sandhu were wrongly shown as co-allottees of the aforesaid plot and the signatures of co-accused Parminder Kaur was got affixed subsequently after tempering with the plot allotment file. In this manner, loss of Rs. 96,25,000/- was caused to PSIEC by way of getting allotment of aforesaid plot in the name of co-accused Parminder Kaur in an illegal manner on old rates.

Evidence against the petitioner

19. That it has come in the statement of Abhinav Mehta son of Swami Prasad Mehta recorded during the course of investigation that he had never leased out/given on rent his house no. 1177, New Light Cooperative Society, Sector 51B, Chandigarh to any person known by the name of Sukhpal Singh Sandhu (present petitioner) or firm namely M/s Crossworth Partnership Firm at any point of time or any other person for that purpose and no such firm ever existed on his residential premises.

20. That during investigation no partnership deed under the name of present petitioner Sukhpal Singh Sandhu, Hardev Singh Jattana (now deceased) and co-accused Parminder Kaur i.e. the purported partners in the aforesaid firm namely M/s Crossworth Partnership that was allotted aforesaid plot as per record, was found available on the case file of said plot.”

7. An analysis of the above arguments would lead to the following outcome. The case of the petitioner is different from other co-accused because there is no evidence as such about any receipt of any share of illegal profit by relinquishing his share in the plot from Parminder Kaur. It would be appropriate to refer to para no.21 of the reply which reads as follows:-

“21. That it has come on record in the statement of Sunil Sharma son of Balam Sharma resident of H. No. 116/4, Sarka Ghat, Mandi, Himachal Pradesh recorded during the course of investigation that the amount for purchase of above said bifurcated plot was given by them to the co-accused Parminder Kaur. There is every possibility that the present petitioner Sukhpal Singh Sandhu must have also received his share of illegal profit for relinquishment of his share in the aforesaid plot in favour of co-accused Parminder Kaur. The said question is yet to be determined during the course of investigation.

8. It is clarified that the case of the petitioner is entirely different from other co-accused and especially Parminder Kaur.

9. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner 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 petitioner is not required in any other case, the petitioner 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 petitioner 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. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
14. 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.
15. **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.