

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32800-2024
Date of Decision: 19.07.2024

Kulwinder Kaur ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Randhir Singh Manhas, Advocate for the petitioner.

Mr. Anurag Chopra Addl. A.G., Punjab
Mr. Gurpartap S. Bhullar, A.A.G., Punjab.
Mr. Sukhdev Singh, A.A.G., Punjab and
Ms. Swati Batra, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
16	02.05.2023	Vigilance Bureau, FS-1, Punjab at Mohali	409, 420, 465, 466, 468, 471, 120-B IPC and 13 (1) (a), 13(2) of PC (Amendment) Act, 2018

1. A woman aged 47, apprehending arrest in the FIR captioned above, has come up before this Court under Section 482 of The Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS, 2023], seeking anticipatory bail.
2. In paragraph 28 of the bail petition, the accused declares that he has no criminal antecedents.
3. Facts of the case are being taken from the status report dated 19.07.2024 filed by the concerned DySP. The above captioned FIR was registered based on the inquiry conducted by the Vigilance Bureau. As per the prosecution, in 2016-17, the Greater Mohali Area Development Authority (GMADA) started acquiring land to set up the Aerotropolis Residential Project near IT City and Aero City Scheme. Subsequently, a Social Impact Assessment notification under Section 4 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 was issued on 15.12.2017. After that, the GMADA initiated the proceedings to acquire 737.1252 acres of land in five villages. The inquiry revealed that some landowners also claimed compensation for the fruit-bearing trees in connivance with higher-ups of GMADA, whereas such fruit-bearing trees either did not exist or were not fruit-bearing

but recently transported saplings. The guava trees were shown to be more than 04 years old, which qualifies them as fruit-yielding trees, whereas the inquiry and the investigation revealed that the paperwork had been completed with spot verification or that the saplings had been recently planted. In addition, some unscrupulous speculators had also started purchasing the land because they were aware of the land acquisition and, thus, defrauded the villagers.

4. Petitioner's Counsel prays for bail and does not object to imposing any stringent conditions. Petitioner's Counsel argued that the custodial investigation would serve no purpose and that pre-trial incarceration would cause irreversible injustice to the petitioner and family.

5. Counsel for the petitioner submits that some of the landowners allegedly defrauded the State government by showing the existence of guava trees on the acquired land, and when the scam was unearthed, then honest horticulturists like the petitioner were also roped in. Counsel for the petitioner further submits that the petitioner never defrauded the Government and is ready to prove her bonafide by depositing the entire compensation amount that was received because of the acquisition of guava trees in the shape of FDRs. Counsel submits that almost all similarly placed persons have been granted bail by this Court on their deposit of the entire compensation amount that they have received on account of fruit trees, and the petitioner is also entitled to the same relief on the principles of parity.

6. The State opposes bail and seeks custodial interrogation. The State counsel does not deny that similarly placed co-accused were granted bail and submits that FDRs have been handed over to the Investigator, whereas similarly placed persons have deposited the same to the concerned Court, and if this Court is granting bail on the ground of parity, then the petitioner must undertake to deposit the FDRs with the concerned Chief Judicial Magistrate. The petitioner's Counsel, on instructions, undertakes to comply with this part by July 31, 2024.

7. Analyzing these arguments would lead to the outcome that the petitioner is also entitled to bail on the principles of parity with similarly placed co-accused. It is subject to the condition that the Investigator returns the FDRs to the petitioner, and the same shall be deposited with the concerned Chief Judicial Magistrate, and the copy of the order mentioning deposit shall be handed over to the Investigator on or before 31.07.2024.

8. Given the above, coupled with the evidence collected so far and the fact that the petitioner is a first offender, one relevant factor would be to provide an opportunity to course correct. Even a prima facie perusal of paragraph 5 of the bail petition needs consideration for bail. Thus, without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner

CRM-M-32800-2024

makes a case for bail, subject to Ss. 485(4), 486, 491, and 492 of the Bharatiya Nagarik Suraksha Sanhita, 2023, and the terms and conditions on bail bonds, to the satisfaction of the Arresting Officer/ Investigator or the concerned Court, whichever is applicable.

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

(ANOOP CHITKARA)
JUDGE

19.07.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No