

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46668-2024
Reserved on: 16.10.2024
Pronounced on: 28.10.2024

Jaskaran Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.S.Cheema, Sr. Advocate with
Ms. Sumanjit Kaur, Advocate
for the petitioner.

Mr. Deepender Singh, Addl. A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
16	02.05.2023	Vigilance Bureau, Flying Squad-I, Mohali	409/420/465/466/468/471/120-B IPC and Section 13 (1) (a), 13 (2) of PC (Amendment) Act (Section 201 IPC added later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 13 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“3. That it is respectfully submitted that with regard to the subject matter of the present petition, it is submitted that the case/FIR No.16, Dated 02.05.2023, under section 409, 420, 465, 466, 468, 471,120-B IPC and 13(1) r/w 13(2) Prevention of Corruption Act, 1988 as Amended by Prevention of Corruption (Amendment) Act 2018(Section 201 IPC added later on) at Police Station Vigilance Bureau, Flying Squad- 1. Punjab at Mohali on the basis of the inquiry report in Complaint number 707 of 2022, which was initiated on the basis of a Source Information Report. As per the same, in year 2016-17, Greater Mohali Area Development Authority (herein after referred to as 'GMADA') started process of acquisition of land for public purpose, namely setting up of "Aerotropolis Residential Project near IT City and

Aero City Scheme" in different villages regarding which Social Impact Assessment (hereinafter referred to as 'SIA') notification under section 4 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013 (hereinafter referred to as 'Act') was issued on 05.12.2017. Accordingly, a public notice dated 20.12.2017 regarding this notification, with a view to associate the interested persons in carrying out SIA study was also published in two leading newspapers viz. 'The Tribune' (English version) and 'Ajit' (Punjabi version) of 20.12.2017. Subsequently, Preliminary Notification number 06/05/2017- 6HG1/1412820/1 dated 06.02.2019 under section 11 of the Act was issued by the Government of Punjab, Department of Housing and Urban Development for acquisition of 737.1252 acres of land of 5 Villages (Bakarpur, Naraingarh, Safipur, Chhat and Rurka) of District SAS Nagar. It is further submitted that this notification under Section 11 of the Act was published in the official Gazette dated 06.02.2019 and also in two leading newspapers i.e. "The Tribune" (English language) and 'Rozana Ajit (Punjabi language) on 19.02.2019. Besides this, the aforesaid notification was also displayed on the notice boards of Gram Panchayats of Villages Bakarpur, Naingarh, Safipur, Chhat and Rurka and the same were also forwarded to the Deputy Commissioner, SAS Nagar and Tehsildar, Mohali vide letter no. 10986-91 dated 18.02.2019. This notification was also uploaded on the official website (gmada.gov.in) of GMADA for the information of General Public. It is pertinent to mention here that the substance regarding the issuance of notification u/s 11 of the Act also got entered in the Rapat Roznamcha of Village Bakarpur vide Rapat No. 231 dated 11.03.2019 by the concerned Halqa Patwari. Thereafter, declaration under section 19 of the Act was issued vide notification no. 06/05/2017-6HG1/1170/A1 dated 28.08.2020 for acquisition of 581.1867 acres of land of Villages Bakarpur, Safipur and Rurka (Pocket-A). This declaration under Section 19 of the Act was published in the Official Gazette on 28.08.2020 and in 2 leading newspapers i.e. 'Hindustan Times' (English version) and 'Rozana Ajit' (Punjabi version) dated 29.08.2020. Further, process of acquisition was completed vide Award number 573 dated 08.01.2021, Pocket-A for total area of 579.71 acres situated at village Bakarpur, Rurka and Safipur, vide Award number 574 dated 08.01.2021, Pocket-B for total area of 206.39 acres at village Mattran, Manoli and Seon vide Award number 575 dated 08.01.2021, Pocket-C for total area of 242.54 acres at village Patton, Manoli and Seon; vide Award number 576 dated 08.01.2021, Pocket -D for total area of 493.88 acres at village Patton, Manoli, Saini Majra and Chau Majra, vide Award number 577 dated 12.02.2021, Pocket-A at village Naraingarh for total area of 68.66 acres and vide Award number 578 dated 12.02.2021, Pocket-A at village Chatt for total area of 60.41 acres.

4. That, during enquiry it transpired that certain beneficiaries who have claimed compensation for fruit bearing trees situated on their land were familiar with the concerned officials/ higher-ups of GMADA and were having prior information of the land acquisition as well as the villages, where the land was to be acquired and moreover, they were also aware that the compensation for trees, including fruit bearing trees, is assessed separately from the value of the land acquired. Subsequently, these individuals or groups in a preplanned way started purchasing and accumulating the land which was going to

be acquired by the Authority with intention to exploit the provisions of the Act for their own wrongful gain in connivance with the concerned officials of Revenue Department, LAC, GMADA, Horticulture Department etc. Further, the accused persons in order to obtain wrongful higher compensation showed Guava orchards to be present on their land/ land taken on lease and in order to influence assessment of market value showed the age of Guava trees to be 4 or more than 4 years, so that those are considered as fruit yielding. To do so, these accused persons get the Revenue/ Khasra Girdawri Register record pertaining to village Bakarpur for the years 2016 to 2021 tampered with the help of co- accused revenue Patwari Bachittar Singh and got mentioned in the record that Guava trees are planted since year 2016. Moreover, Bachittar Singh Patwari replaced the original Khasra Girdawri Register pertaining to Khasra number 1//25 to 25//12/2 from year 2016 to 2021 by getting printout of the proformas of Khasra Girdawri Register from Fard Kendra, Mohali on 15.04.2019 at 04:47:03 evening and prepared ante-dated Khasra Girdawri Register w.e.f. 'Sauni'-2016 showing presence of Guava orchards in the land of the accused persons. That for the purpose of determining the compensation for the Guava trees, assessment report was prepared by the Horticulture Department in accordance with the Act and the assessing officials of the said Department granted undue benefit (higher compensation) to the beneficiaries by considering 2000- 2500 number of trees present per acre of land and by declaring such age and category of plants to enable the beneficiaries to receive compensation of standing Guava trees for next 20 years on the basis of the fact that Guava plants yield fruits for 20 years. Moreover, the accused officials of Horticulture Department have evaluated Guava trees on the Khasra numbers on which as per the Khasra Girdawri Register, crops of wheat and rice are shown to be cultivated."

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. The State's counsel opposes bail and refers to the status report.

6. Pre-trial incarceration should not be a replica of post-conviction sentencing. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, per paragraph 6 (xi) of the bail petition, the petitioner has been in custody since 14.08.2024. Per the custody certificate dated 15.10.2024, the petitioner's total custody in this FIR is 02 months and 01 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage.

7. 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.

8. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

9. 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)	

10. This order is subject to the petitioner's complying with the following terms.

11. 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.

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

13. 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.

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

(ANOOP CHITKARA)
JUDGE

28.10.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.