2024:PHHC:143035

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

211 **CRM M-48990 of 2024**
Date of Decision: 28.10.2024

Sahil Kashyap and another ...Petitioner

Versus

State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Naveen Kashyap, Advocate
for the petitioners.

Ms. Sheenu Sura, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioners have filed the present petition under Section 438 of the Cr.P.C. with a prayer to grant pre-arrest bail to them in case FIR No.13 dated 27.05.2024 registered under Sections 120-B, 409, 420, 467, 468 and 471 of IPC and Sections 13(2), 13(1)(a), 13(1)(b) of the Prevention of Corruption Act, 1988 at Police Station Anti Corruption Bureau, Ambala, District Ambala.

2. Learned counsel for the petitioners contends that the petitioners have been falsely involved in the present case, which was registered initially on the basis of a complaint moved by the local MLA against the officials of Zila Parishad by alleging that they had

misused their position. He further contends that the complainant had levelled allegations against certain officials, but the petitioners were not having the charge of this work and had no concern with the allegations levelled by the complainant. Learned counsel further contends that an amount of Rs.23,04,007/- was transferred in the account of petitioner No. 2, whereas an amount of Rs.5,55,712/- was transferred in the account of petitioner No. 1. When the petitioners came to know about the amounts received in their accounts, they contacted Naveen Kumar, SDO and on the directions of Naveen Kumar SDO, the amounts were immediately transferred in the account of Naveen Kumar SDO. Thus, it was established that the petitioners had neither misused the funds nor their posts. Learned counsel further contends that in the present case, Anil Kumar Garg, co-accused had been granted the concession of regular bail by this Court vide order dated 30.08.2024 (Annexure P-2).

3. On the other hand, a detailed status report had been filed by way of an affidavit of the Deputy Superintendent of Police, Anti Corruption Bureau, Ambala Range, Ambala and the same was taken on record.

4. Learned State counsel submits that in the present case, an amount of Rs. 31.64 crores was received for the creation of capital assets during the financial year 2021-22 in Zila Parishad, Kaithal and 50% of the amount was to be utilized for carrying out works for the

creation of capital assets relating to sanitation. However, instead of carrying out the said work, administrative approval was granted for carrying out of tied work and certain activities were conducted. However, these activities did not align with the intended purpose of creating public assets as mandated by the State. Apart from that, it was also found that the accused in the present case had hatched criminal conspiracy with other co-accused and the owner of certain firms and without making entries in the log books of JCB, Tractor and Trolly, remaditation and reclimation of Solid Waste Machine, Dumper, Suction Tanker etc., had falsely shown the execution of 208 tied works in 151 villages and prepared fake bills/vouchers of the above work, which was carried out from February 2021 to March 2021. Further, the accused had prepared fake measurement books and fake muster rolls of labourers in different villages. Still further, during inquiry, it was also found that an amount of Rs. 5,55,712/- was sent in the account of petitioner No. 1 whereas an amount of Rs. 23,04,007/- was transferred in the account of petitioner No. 2. Instead of sending it back to the account of Zila Parishad, both the petitioners had transferred the amount in the account of Naveen Kumar, SDO. Thus, due to the said act, it transpired that instead of discharging their duties properly, they misused the Government money as well their official position.

5. Learned State counsel further submits that during investigation of the said case and on the basis of recovered record/evidence and statement of witnesses, it is clearly and manifestly proved beyond any shadow of reasonable doubt that the accused-petitioners and other officers/officials of Zila Parishad, Kaithal, after misusing their official position and in connivance with proprietors of firms and accused-petitioners, on the basis of forged and fabricated bills/vouchers, misappropriated Government funds and caused financial loss to the Government to the tune of around Rs. 7,15,53,723/-. The co- accused Naveen Kumar suffered two disclosure statements and disclosed guilt and involvement of the accused-petitioners in the present case and admitted that he in conspiracy with co-accused had misappropriated the Government funds and got transferred, an amount of Rs. 23,04,007/-in the bank account of accused-petitioner No. 2 Jaibir Singh J.E. and an amount of Rs. 5,55,712/- in the account of accused-petitioner No. 1 Sahil Kashyap JE. But instead of returning the amount in the account of Zila Parishad, Kaithal in connivance with co-accused Naveen Kumar SDO, the accused-petitioner No. 2 Jaibir JE transferred the amount of Rs. 23,04,007/- in the bank account No. 20290665189 of co-accused Naveen Kumar SDO and accused-petitioner No. 1 Sahil Kashyap, JE transferred the amount of Rs. 5,55,712/- in Bank Account No. 0231001500018638 of PNB of Ritu wife of co-accused Naveen Kumar SDO and thus misappropriated Government funds which

proves active involvement of the accused-petitioners in the commission of present offences in connivance with other accused. Thus it is crystal clear that the accused-petitioners in connivance with Naveen Kumar, SDO and other co-accused persons have misappropriated the Government funds and have direct complicity in the commission of present offences. The copy of bank account statement of the accused-petitioners is annexed herewith as annexures R-4 & R-5.

6. I have heard learned counsel for the parties and perused the record.

7. In the present case, it has been found that during the course of inquiry by the Anti Corruption Bureau the petitioners had hatched criminal conspiracy with other co-accused and huge government funds had been siphoned off. Apart from that, there was sufficient evidence on the file, which *prima facie* proved that the allegations levelled against the petitioners are serious in nature. Still further, at this stage, the grant of concession of anticipatory bail may frustrate the Investigating Agency in interrogating the accused and also the process of collecting the evidence against them. In fact, this Court is of the considered opinion that the custodial interrogation of the petitioners would be required in the present case to conclude the investigation in a meaningful way.

8. Finding no merits, the present petition is ordered to be dismissed.

28.10.2024 **(N.S.SHEKHAWAT)**
amit rana **JUDGE**

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