

KULWANT SINGH... Petitioner

Versus

STATE OF HARYANA... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Vinod Ghai, Sr. Advocate with
Mr. Arnav Ghai, Advocate, for the petitioner

Mr. Surender Singh, AAG, Haryana.

Mr. Puneet Jindal, Sr. Advocate with
Ms. Malvi Aggarwal, Advocate for the complainant.

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
401	19.05.2023	120-B, 406, 420, 467, 468, 471, 409, 477A IPC	City Yamuna Nagar, District Yamuna Nagar

2. In *nutshell* brief facts of the case are that a complaint dated 19.05.2023 was lodged by Pawan Narula, Executive Engineer, (OP) Division, UHBVN, Yamuna Nagar (UHBVN hereinafter referred to as Nigam) alleging that M/s S.B. Roadline Shop No.9, Booter Market, Sasouli Road, Opposite Government School, Yamuna Nagar is an authorized



contractor of the Nigam for carrying out the electrical works under said Division. On checking of the record for the years 2021-22 and 2022-2023, it was found that M/s S.B. Roadline had submitted forged bills in the office of (OP) Division, UHBVN, Yamuna Nagar and encashed the payment against illegal and false bills in connivance with some employees of Nigam. Approximately, an amount of ₹2,01,28,255/- has been encashed against the forged and fake bills and total loss to the Nigam will be calculated in due course after completion of final audit. On the basis of the information, FIR was registered and SIT was constituted to inquire into the matter. Accused Kulwant Singh and Rajbir Singh were interrogated and arrested. Special Audit Report was prepared by Executive Engineer (OP), UHBVN, Yamuna Nagar in which there is an embezzlement of ₹11,07,22,106.18/- by S.B. Road lines.

3. It is *inter alia* contended by learned Senior counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He submits that petitioner was not named in the FIR and is in custody since 04.07.2023. He further submits that the petitioner has been made a scapegoat in the present case being the Executive Engineer working at the relevant time. He submits that the allegations levelled in the FIR that some fake and duplicate bills were presented for payment by M/s S.B. Roadlines and the petitioner in the capacity of Executive Engineer had signed on the same for releasing the payment. He submits that the petitioner has not in any manner committed any illegality, as it is the duty of the concerned Sub-Divisional Officer and Junior Engineer to prepare and verify the bills after checking the site and thereafter the bills were sent to Head Draftsman



and then to Regional Accountant and finally after the same has been verified and duly signed by these officers, the Executive Engineer has to sign the bill for payment. He submits that the bills in question were duly verified and signed by the concerned Sub-Divisional Officers and Junior Engineers and on the basis thereof, the petitioner had signed the same in the capacity of Executive Engineer. He contends that even as per the special Audit conducted by the complainant department, it is reported in the Audit findings annexed with the reply by the State vide letter dated 09.09.2023 that the Audit is unable to make definite conclusion and cannot comment on the authenticity of the signatures and the issue of disputed signatures needs to be referred to External Forensic Investigation Agency. He submits that the complainant department and also the investigating agency has intentionally given clean chit to the concerned Sub-Divisional Officers and Junior Engineers who had verified and signed on the bills in question. He submits that the petitioner is in custody since 04.07.2023 and after completion of investigation, challan has already been presented in Court and co-accused Balbir Singh has already been granted concession of bail by learned trial Court. He contends that the trial will take sufficient long time to conclude, as such prays for grant of concession of regular bail to the petitioner.

4. *Per contra*, learned State counsel assisted by learned Senior counsel for the complainant have assailed these arguments and contended that the petitioner was responsible for release of the payment and has in connivance with the other co-accused released the payment on the basis of fake bills and even duplicate bills submitted by M/s S.B. Roadlines worth

crores of rupees, hence they prayed for dismissal of the present petition.

5. After considering the rival contentions and perusing the record, it is not disputed that the petitioner has been working as Executive Engineer in the said Division from 28.06.2021 to 16.06.2022. Admittedly the Audit pertains to the period 01.04.2020 to 31.03.2023 as per Annexure ‘C’. It is also fact that the concerned Junior Engineers and Sub-Divisional Officer’s who have signed have not arrayed as accused by the investigating agency. Balbir Singh Divisional Accountant who had verified the bills had since been granted concession of bail. Admittedly after completion of investigation, challan has already been presented in Court for trial and it will take sufficient long time for trial Court to conclude the same after examining all the witnesses cited by the prosecution and no purpose would be served by detaining the petitioner in custody any longer.

6. Resultantly, the present petition is allowed. The petitioner is ordered to be released on regular bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

30.05.2024

Gyan	i)	Whether speaking/reasoned?	Yes/No
	ii)	Whether reportable?	Yes/No