In the High Court of Punjab and Haryana at Chandigarh

201 **CRM-M-62913-2023 (O & M)**
Date of Decision: May 03, 2024

Balbir Kumar Virdi .....**Petitioner**

VERSUS

State of Punjab ....**Respondent**

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Karambir Singh Nalwa, Advocate for the petitioner.

Mr. Anurag Chopra, Addl. AG, Punjab.

****

ANUPINDER SINGH GREWAL, J (ORAL)

The petitioner is seeking anticipatory bail in FIR No.12 dated 16.05.2023, under Sections 13 (1) (b) and 13 (2) of the Prevention of Corruption Act, 1988 (for short – 'the Act'), registered at Police Station Vigilance Bureau, Jalandhar Range, Jalandhar, Punjab.

(2) Submissions by the Counsel for the petitioner:-

(i). Learned counsel for the petitioner submits that there is a delay of 2½ years in registering the FIR. The enquiry had been initiated by the respondent with regard to the assets acquired by the petitioner w.e.f. 01.04.2007 to 11.09.2020 (hereinafter referred to as 'check period'). The petitioner had joined the inquiry on 09 occasions and has been cooperating with the investigating agency. He had also duly submitted his income tax returns along with that of his family members. He had also filled all the proformas as required by the investigating agency which has been duly acknowledged by the investigating agency in their notice dated 03.09.2021 (Annexure P-9).

(ii). The respondent-State has not complied with Sections 41 and 41-A Cr.P.C. before effecting the arrest of the petitioner as the offence in the FIR is punishable with a sentence of less than 07 years. He also submits that after the arrest had been stayed by the Coordinate Bench, the Investigating Agency has not called the petitioner on any occasion to clarify doubts, if any, although the petitioner on his own had informed the Investigating Agency through e-mails dated 28.01.2024 and 25.02.2024 that he is willing to offer any cooperation or join investigation, which was duly acknowledged by the investigating agency through their written reply but it did not pass any order asking the petitioner to join investigation.

(iii) That although the investigating agency has taken into account the expenses incurred by the family members of the petitioner, but they have disregarded their income as reflected in their income tax returns indicating that they are income tax payees in their own right and have an independent income which has nothing to do with the income of the petitioner.

(iv) That it is alleged that the petitioner has assets amounting to Rs.3 crores which are disproportionate to his known sources of income but in this amount of Rs.3 crores, a sum of Rs.1.80 crores, which is the value of the house belonging to the in-laws of the petitioner, cannot in any manner be clubbed with the expenses of the petitioner.

(v) That although the entire case set up against the petitioner hinges around 04 properties which were acquired by the petitioner and his family members but the petitioner is accountable for the properties which he has acquired. He had either sold the properties which he earlier held or bought the properties from the legitimate income and loan amount.

(vi) He, therefore, submits that the custodial interrogation of the petitioner is not necessary, especially when the petitioner himself has offered to join investigation and is willing to render all possible cooperation. The entire case of the investigating agency is based on documentary evidence which is already in their possession.

(3) Submissions by the State counsel

(i) Learned State counsel submits that the assets acquired by the petitioner and his family members are disproportionate to their known sources of income inasmuch as the income of his wife ranges between Rs.1,08,000/- to 1,34,000/- per annum from the years 2004 to 2020 but she has acquired assets worth Rs.2 crores. The amount of Rs.1.60 crores has been shown to be in her account during the check period. She is allegedly running a boutique in the name of M/s Virdi Creation and has shown an amount of Rs.68 lacs as income during the check period against which no income tax return has been filed. He further submits that M/s Virdi Creation neither has any address nor any GST number and its transactions appear to be dubious. In addition thereto, there are entries indicating commissions amounting to Rs.59 lacs in her account during the check period.

(ii) He also submits that the petitioner is closely linked to a shell company in which the wife of the petitioner and one Bharat Bhushan are partners and an amount of Rs.20,54,000/- has been shown to be credited to the account of the petitioner. The name of the company is Soft and Cool Company but neither the address nor any GST number with regard to this company is in existence.

(iii) He submits that in the Hindu Undivided Family Account, wherein the petitioner is the Karta, an income of Rs.45 lacs has been shown but the sources are not forthcoming.

(iv) He further pointed out that the mother-in-law of the petitioner, who was having only a sum of Rs.97,500/- in the year 2010 in her saving account, had later acquired the assets which are grossly disproportionate to her known sources of income. There was huge transaction of over Rs.1 crore out of which sale proceeds of her house was only Rs.38.50 lacs but the remaining outstanding amount of Rs.77 lacs is unexplained. A sum of Rs.43 lacs was used in the construction of new house which is also unaccounted.

(v) He further submits that offence under Section 13(2) of the PC Act is punishable with imprisonment upto 10 years in terms of the amendment carried out in the year 2014 which came into effect on 16.01.2014.

4. At this stage, learned counsel for the petitioner submits that the factual contents of the submissions of learned State counsel are without any basis. The income of his wife and other family members were duly accounted and they have been filing their income tax returns. His wife paid Rs.15.79 lacs as income tax during the check period. He further submits that the Soft and Cool Company is not a shell company but it is a manufacturing unit.

5. Learned State counsel submits that the investigating team had gone for physical verification and M/s Virdi Creation was found to be non-existent. It has also been verified from the office of Assistant Commissioner

State Tax, Jalandhar-2 vide letter dated 09.09.2021 that no GST number has been issued to this company under the GST Act, 2017.

6. Heard.

7. It is apparent that the allegations against the petitioner, who is working as Joint Director, GST (Excise Department), Jalandhar, are that he has allegedly acquired assets which are disproportionate to his known sources of income. His family members had also allegedly acquired assets and their sources of income are alleged to be dubious. Corruption among public servant has increased to alarming proportions. The Courts have to be circumspect in granting anticipatory bail in the wake of serious allegations of acquisition of assets disproportionate to the known sources of income. It deserves to be noticed that this is the second petition for anticipatory bail. The first petition for anticipatory bail bearing CRM-M-32639-2023 was argued at some length by the counsel for the petitioner and thereafter, withdrawn on 10.07.2023. I do not find any change in circumstances which would justify another view by this Court.

8. Consequently, I do not find any merit in this petition, which stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

May 03, 2024
A.Kaundal

Whether speaking/ reasoned : Yes/No
Whether Reportable : Yes/No