

2024:PHHC:171773



162 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64847-2024
DECIDED ON:20.12.2024

AJAY KUMAR

....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Nikhil Ghai, Advocate and
Mr. Nikhil Thamman, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG Punjab.

SANDEEP MOUDGIL, J

1. Relief Sought:-

The jurisdiction of this Court under Section 482 of BNSS, 2023 has been invoked for the grant of anticipatory bail to the petitioner in case FIR No. 218, dated 26.11.2024 (Annexure P-1), under Sections 409, 420, 120-B IPC and Section 13(1), 13(2) of Prevention of Corruption Act 1988 as amended vide Prevention of Corruption (Amendment) Act, 2018, registered at Police Station Khanna City-2, District Ludhiana.

2. *Facts:-*

“Today complaint No. 1987-5E dated 09.11.2024 letter No. 1717 by Executive Officer, Municipal Council, Khanna after enquiry by Deputy Superintendent of Police Khanna and after taking legal opinion was received at Police Station through dak for registration

of case FIR against Ajay Kumar son of Manohar Lal resident of Ward No. 98, Kaka Colony, Patiala, J.E, Municipal Council Khanna, Pawan Kumar Contractor and Kamaljit Singh Ladher President of Municipal Council Khanna, the contents of which are as under:- "To, S.S.P Khanna. Subject:- Regarding complaint given by Parampreet Singh Poppy Councilor Ward No. 16. Regarding initiation of appropriate legal action against President Kamaljit Singh Ladher councilor (sic) Ranvir Singh Kaka and concerned officer Sh. Ajay Kumar Gaba for committing embezzlement of Rs. 3.17 lacs by floating tender of Rs. 4.20 lacs in name of Veeru Karyana Wali Gali, Ward No. 25. In connection with above cited subject, the enquiry into complaint received was got conducted from Technical Officer of Municipal Council and Technical Officer, after checking the spot, found that said street is constructed of C.C and inter-locking tiles are not installed in this street. Complaint is being sent to initiating legal action. Sd/- Executive Officer, Municipal Council, Khanna." Above said complaint was marked by SSP Khanna to DSP Khanna for enquiry. Sd/- Sr. Superintendent of Police Khanna. At this, Deputy Superintendent of Police Khanna wrote in his enquiry report as under: - "While addressing the subject cited letter to your (Senior Superintendent of Police, Khanna) by Executive Officer, Municipal Council, it has been written that, "enquiry into complaint given by Parampreet Singh Poppy Councilor Ward No. 16 was conducted by Technical Officer of the Municipal Council Khanna and after checking the spot, it has been found that said street is constructed of C.C and inter locking tiles are not installed in the said street. Complaint is being sent for initiating legal action." The above said letter has been sent by your goodself to under-signed for further action, whereupon with regard to this letter, complainant Parampreet Singh @ Poppy was joined in enquiry and photocopy of the complaint given by him to Executive Officer, Khanna was obtained and his statement was recorded. During enquiry, Sh. Charanjit Singh Executive Officer, Municipal Council Khanna was

taken along and spot of Veeru Karyana Store Wali Gali, Ward No. 25, Khanna was inspected. Photographs of the spot were obtained and after joining Charanjit Singh Executive Officer, Khanna in enquiry, his statement was recorded. During enquiry, as per instructions of Charanjit Singh Executive Officer Khanna, Sandeep Singh, J.E, Municipal Council Khanna produced attested photocopies of office record (total 21 ' pages) relating to Veeru Karyana Store Wali Gali, Ward No. 25 and his statement was recorded. Statement of Charanjit Singh Executive Officer, Municipal Council, photographs of the spot, statement of Sandeep Singh J.E, photocopies of record produced are attached with the report for perusal. During enquiry of complaint, opposite party Kamaljit Singh Ladher President Municipal Council Khanna, Rajesh Raini son of Chaman Lal Raini, resident of House No. 13/130, Ram Nagar, Ajnala, District Amritsar and Ajay Kumar son of Manohar Lal, resident of House NO. 98, Kaka Colony, Patiala were got noted to join the enquiry, whereupon Rajesh Raini and Ajay Kumar aforesaid came present on being summoned, who were joined in enquiry of complaint and their statements were obtained but Kamaljit Singh Ladher President Municipal Council Khanna and Ranbir Singh Kaka, Municipal Councilor, Amandeep Kaur Ward No. 25 did not join the enquiry despite intimation by my reader over mobile phone and despite issuance of written parwana. Statements of opposite party Rajesh Raini and Ajay Kumar aforesaid are attached with the report for perusal. During enquiry, from the perusal of statements, it has been found that after preparing the estimate of Rs. 4,20,000/- for installing inter locking tiles in Veeru Karyana Store Wali Gali on 07.06.2021, Municipal Council Khanna had passed resolution in is meeting for providing and laying inter locking tiles in gali veeru karyana store ward No. 25 ad tender of this work was floated. Said tender was floated on 05.08.2021 and Work Order No. 3058 dated 21.09.2021 of this work was allotted to contractor Pawan Kumar for Rs. 3,17,252/- on his bid. This whole work was done as per work orders under

supervision of Ajay Kumar J.E Municipal Council Khanna and Rajesh Raini, M..E Municipal Council Khanna, who after visiting the spot and completion of work, prepared bill of Rs. 3,17,252/-. After passing of this bill, the payment of Rs. 3,17,252/- was made to Pawan Kumar contractor as per record but now on conducting of enquiry of complaint given by complainant Parampreet Singh @ Poppy aforesaid by Technical officer of Municipal Council Khanna and during enquiry, on conducting the spot inspection of Veeru Karyana Store Wali Gali Ward No. 25 by under-signed along with Executive Officer, Municipal Council Khanna, it has been found that no inter locking tiles have been laid in this street and street is constructed of C.C. Besides this, during enquiry, it has also come to the light that Pawan Kumar contractor was called and heard and his statement wa's recorded, who while producing his affidavit dated 05.01.2024. duly attested by notary, admitted that his affidavit be considered his statement. He has mentioned in his affidavit that, "in year 2021, when he had gone to start the work of inter locking tiles in Veeru Karyana Store wali Gali, then the people residing there said that there street was, alright and they do not want to get constructed the street. At that time, Ranbir Singh Kaka husband of M.C Amandeep Kaur had also gone with him but even then people refused to get constructed the street and later he received a phone call from Ranbir Singh Kaka that M.C Amandeep Kaur had called him. Thereafter Amandeep Kaur forcibly told him that bill of that street was to be prepared and they need that money. At this despite his refusal, they called the concerned officer at the spot and after making wrong entries in official papers, gave bill to him and Ranbir Singh Kaka accompanied him to bank and after withdrawing the said amount, he kept the same with him." Copy of the affidavit produced by him is attached with the report for perusal. From the above said facts at the spot, estimate prepared by Municipal Council Khanna, documentary proofs, I have come to the conclusion that after preparing the estimate of Rs. 4,20,000/- for laying new inter locking tiles in Veeru Karyana Store Wali

Gali, Ward No. 25, Khanna on 07.06.2021, the tender was put up in meeting of the house in Municipal Council Khanna on 05.08.2021 and in order to complete the said work, work order No. 3058 dated 21.09.2021 was allotted to Pawan Kumar Contractor for Rs. 3,17,252/- on His bid. Said whole work was to be done under supervision of Ajay Kumar J.E Municipal Council Khanna. As per rules of Municipal Council Khanna, after completion of the work, he was to make report but Ajay Kumar made the report in record of Municipal Council Khanna without even work of the street having been done and on the basis of said report, then then Executive Officer Charanjit Singh, while believing it, passed the bill of Rs.3,17,252/- as per work order. As per record, the payment of this bill has been found to be in account of Pawan Kumar Contractor. It was duty of Kamaljit Singh Ladher, President of Municipal Council Khanna to supervise this whole work because he has been appointed President by residents of Khanna City but he did not perform his responsibility, rather got made the payment of bill in account of Pawan Kumar Contractor even without work having been done. From these facts of enquiry, it has been found that Ajay Kumar son of Manohar Lal, resident of House No. 98, Kaka Colony, Patiala, J.E' Municipal Council Khanna, Pawan Kumar Contractor and Kamaljit Singh Ladhar President Municipal Council Khanna, under a pre-planned conspiracy, invited tender of inter locking tiles for Veery Karyana Store Wali Gali, Ward No. 25, Khanna, without conducting the work of the street, got drawn bill of, Rs. 3,17,252/- from State Exchequer and committed embezzlement by making payment to contractor Pawan Kumar and by mis-using the Govt. funds, used the same for personal benefits with an intention of committing cheating. But even then, it is necessary to obtain opinion from legal expert. Therefore, if report is approved, then after taking opinion of the legal expert regarding this matter, further action be initiated. Report is submitted. Sd/- Deputy Superintendent of Police, Khanna," At thisSSP. Khanna vide his, office's No. 777-5E Dt.

23.11.2024 wrote, "Dy. DA for n/a legal opinion as per law. Sd/- Sr. Superintendent of Police, Khanna." At this, ADA Legal Khanna wrote in office's Memo No. 03/Deputy District Attorney (Legal) dated 23.11.2024 as under:- "Legal opinion No. 03/Deputy District Attorney (Legal) dated 23.11.2024. Subject:- Legal opinion regarding letter No. 1717/Executive Officer, Municipal Council Khanna dated 08.11.2024. Brief facts:-Paramjit Singh Poppy, Councilor Ward No! 16, Krishna Nagar, Khanna had given a complaint to Executive Officer Municipal Council Khanna against Kamaljit Singh Ladhar, President Municipal Council Khanna, Ranbir Singh Kaka and concerned officers Aiay Kumar Gaba, Pawan Kumar contractor that tender. of work of "interlocking tiles in gali Veeru Karyana Store Ward No. 25" was allotted to Pawan Kumar Contractor but no work was done under above said tender in Veeru Karyana Wali Gali Ward No.25 Khanna and Pawah Kumar contractor has produced his attested affidavit, in which he has admitted that tender of work of Veeru Karyana Wali Gali Ward No. 25 Khanna was allotted to him but residents of street had refused to get constructed the street and thereafter work order for constructing the above said street was allotted to him vide work order 3058 dated 21.09.2021 for a sum of Rs. 3,17,252/- and supervision of this work was to be done by Ajay Kumar J.E. In this regard, bill of rs. 3,17,000/- was prepared in M.B book and cheque was issued in name of Pawan Kumar contractor and embezzlement of above said amount of Rs. 3,17,000/- has been done because street in Veeru Karyana Wali gali was not constructed and Kamaljit Singh Ladher, Ajay Kumar J.E and Pawan Kumar contractor mis-used the funds of Municipal. Council Khanna and committed embezzlement, due to which loss has been caused to State Exchequer and Govt. funds have been used for personal benefits." On enquiry into the above said complaint by Enquiry Officer, it has been concluded that after preparing the estimate of Rs. 4,20,000/- for laying new inter locking tiles in Veeru Karyana Store Wali Gali, Ward No. 25, Khanna on 07.06.2021, the tender

was put up in meeting of the house in Municipal Council Khanna on 05.08.2021 and in order to complete the said work, work order No. 3058 dated 21.09.2021 was allotted to Pawan Kumar Contractor for Rs. 3,17,252/- on his bid. Said whole work was to be done under supervision of Ajay Kumar J.E Municipal Council Khanna. As per rules of Municipal Council Khanna, after completion of the work, he was to make report but Ajay Kumar made the report in record of Municipal Council Khanna without even work of the street having been done and on the basis of said report, then then Executive Officer Charanjit Singh, while believing it, passed the bill of Rs. 3,17,252/- as per work order. As per record, the payment of this bill has been found to be in account of Pawan Kumar Contractor. It was duty of Kamaljit Singh Ladher, President of Municipal Council Khanna to supervise this whole work because he has been appointed President by residents of Khanna City but he did not perform his responsibility, rather got made the payment of bill in account of Pawan Kumar Contractor even without work having been done. From these facts of enquiry, it has been found that Ajay Kumar son of Manohar Lal, resident of House No. 98, Kaka Colony, Patiala, J.E Municipal Council Khanna, Pawan Kumar Contractor and Kamaljit Singh Ladher President Municipal Council Khanna, under a pre-planned conspiracy, invited tender of inter locking tiles for Veery Karyana Store Wali Gali, Ward No. 25, Khanna, without conducting the work of the street, got drawn bill of Rs. 3,17,252/- from State Exchequer and committed embezzlement by making payment to contractor Pawan Kumar and under a pre-planned conspiracy, by mis-using the Govt. funds, have caused a loss to State Exchequer and have used the Govt. funds for their personal benefit." I agree with the enquiry conducted by Enquiry officer on the basis of above said facts. On the basis of above said enquiry report and enclosed documents, prima facie offence under sections 409, 420, 120-B, IPC and section 13(1)(A) R/W 13(2) of Prevention of Corruption Act, 1988 are made out. Even then, if any other fact comes to the

light regarding forging documents or using the same, then investigation can be conducted under relevant sections. Sd/- Mandeep Kaur, Deputy District Attorney gLegal) Police District Khanna." At this, S.S.P Khanna wrote, "SHO City-2 Khanna to Register the case as per legal opinion. Approved Pis. Sd/- Senior Supdt. of Police, Khanna. Dt. 25.11.2024." At the Police Station:- On receipt of above said complaint together with statements, enquiry report at Police Station, case FIR for the above said offence has been registered against Ajay Kumar Gaba, Pawan Kumar Contractor and Kamaljit Singh Ladher aforesaid. Original complaint together with statements, enquiry report and copy of FIR is being sent to Deputy Superintendent of Police, Khanna for further investigation. DCR Khanna and higher officers, have been informed."

3. Submissions:-

On behalf of petitioner:-

Learned Senior counsel appearing on behalf of the petitioner argues that multiple inquiry on the same set of allegations levelled by the complainant are not permissible in the light of notification dated 01.04.2008 issued by the Director General of Police, Punjab. Learned Senior counsel relies upon the order passed in **CRM-M-18244-2008 titled as 'Jaswinder Singh vs. state of Punjab and Ors.'** wherein it has been held that "*multiple inquiries not only cause injustice to the petitioner-complainant but also become a source of abuse, harassment and cause delay in conclusion of criminal investigation and trial*".

On behalf of respondent-State:-

Learned State counsel appearing on advance notice prays for dismissal of the present petition stating that there are serious allegations against the petitioner, therefore his custodial interrogation is required.

4. **Analysis & Conclusion:-**

Be that as it may, considering the submissions made by learned Senior counsel for the petitioner by relying upon the order passed in **CRM-M-18244-2008 titled as 'Jaswinder Singh vs. state of Punjab and Ors,'** this Court finds no reason to deny the petitioner the concession of anticipatory bail, wherein holding multiple inquires on same set of allegations would amount to violation of Article 21 of the Constitution of India added with the fact that the petitioner has *bona fide* intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency within the stipulated period.

5. **Decision**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to him joining the investigation and reporting to the Investigating Officer concerned within a period of 10 days from today, upon furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer.

The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

“When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

- (iii) a condition that the person shall not leave India without the previous permission of the Court;
- (iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.”

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within 10 days, the order passed by this Court today shall automatically, stand cancelled.

In the afore-said terms, the present petition stands allowed.

20.12.2024
sham

(SANDEEP MOUDGIL)
JUDGE

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