



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.43986 of 2024
Date of decision: 7th January, 2025

Rajinder Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Mandeep S. Bedi, Senior Advocate with
Mr. Abhishek Thakur & Mr. Navrajdeep Singh,
Advocates for the petitioner.

Mr. Navdeep Singh, Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of bail under Section 482 of the BNSS in case FIR No.0098 dated 01.08.2024 under Sections 409, 420 of the IPC and Section 7 of the Prevention of Corruption Act, 1988 (hereinafter referred to as, 'the PC Act') registered at Police Station Sadar Nawanshahar, District SBS Nagar.

2. Learned senior counsel for the petitioner submits that the petitioner was serving as an Executive Engineer in the Provincial Division of the Public Works Department (Buildings & Roads), SBS Nagar from 26.12.2019 to 31.12.2021. The petitioner has been falsely implicated in the FIR in question based on an inter-departmental communication dated 17.08.2023, recommending criminal action

against 8 officers including the petitioner, almost three years after his transfer from the Division.

3. It has been further contended that the enquiry conducted against the petitioner was one-sided and deprived him of a fair opportunity to present his defence. The learned senior counsel has further highlighted procedural irregularities, asserting that the enquiry violated Section 17A of the PC Act, which mandates prior approval from the competent authority before initiating any investigation or enquiry against a public servant. This procedural safeguard, as per the learned senior counsel, was flagrantly disregarded in the case of the petitioner. It has been urged that in the facts and circumstances, more so when the petitioner is willing to join investigation and cooperate with the Investigating Agency, he be extended the concession of anticipatory bail.

4. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has argued that there are serious allegations against the petitioner pertaining to grave financial irregularities during his tenure from 26.12.2019 to 31.12.2021. It has been submitted, on instructions, that the petitioner, during his tenure as Executive Engineer, facilitated the release of excess payments amounting to approximately ₹2.50 crores to the contractor. It has been further submitted that the petitioner failed to deduct the required security deposit and omitted to impose liquidated damages on the contractor for non-performance, thereby causing significant financial losses to the State Exchequer. It has also been argued by the learned State counsel, on instructions, that the petitioner, who was entrusted with the supervision and monitoring of the project, misused his official

position in connivance with other accused to grant undue benefits to the contractor. It has been further asserted by the learned State counsel that the material collected by the Investigating Agency strongly indicates the direct involvement of the petitioner in the financial irregularities, and therefore, his custodial interrogation is essential to unearth the entire conspiracy and ascertain the extent of misappropriation. Learned State counsel submits that there was no requirement for the Investigating Agency to obtain sanction under Section 17A of the PC Act as the acts done by the petitioner were not in discharge of his official duties, thereby disentitling him from protection under Section 17A of the PC Act.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. The petitioner, while posted as Executive Engineer, held a position of trust and responsibility to supervise the construction project which had been allocated to co-accused Contractor M/s Tung Builders Pvt. Ltd. and ensure compliance with contractual obligations. As per the report of the departmental committee, during his tenure, the petitioner allegedly approved excess payments of approximately ₹2.50 crores to the contractor and failed to deduct the mandatory security deposit. He also allegedly omitted to impose liquidated damages for the non-performance of the work allotted to the contractor, thereby granting undue financial advantage to the contractor in violation of the terms of the agreement.

7. The material on record, including the departmental findings, prima facie indicates that the petitioner, in connivance with the co-

accused, engaged in gross misconduct and financial irregularities, causing significant loss to the public exchequer.

8. The argument raised by the learned senior counsel for the petitioner regarding the alleged procedural non-compliance with Section 17A of the PC Act, while relying upon ‘**Nara Chandrababu Naidu vs. State of Andhra Pradesh**’ (SLP Crl.12289-2023), is without merit as the same is a disputed question of fact given the submissions made by learned State counsel in this regard, and cannot be delved into during a hearing for grant of anticipatory bail.

9. At this juncture, the seriousness of the allegations, coupled with the prima facie evidence pointing towards the involvement of the petitioner, would outweigh any procedural lapses.

10. This Court is of the considered opinion that granting bail to the petitioner at this stage would hamper the ongoing investigation and may also obstruct the discovery of crucial evidence regarding the extent of misappropriation and the role of other accused.

11. In the facts and circumstances, no ground is made out to extend the extraordinary concession of anticipatory bail to the petitioner. The petition as such stands dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

January 7, 2025

rps

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