

Law Today Live Doc. Id. 15555

PUNJAB AND HARYANA HIGH COURT

Before: Manjari Nehru Kaul, J.

CRM-M No. 22525 of 2020

Decided on: 28.10.2020

Kulbir Singh Sawhney

Petitioner

Versus

State of Haryana

Respondent

(Through Video Conferencing)

Present:

Mr. Vinod Ghai, Senior Advocate with Mr. Aditya Jain, Advocate and Ms. Kanika Ahuja, Advocate for the petitioner.

Mr. Parveen Aggarwal, DAG., Haryana assisted by DSP Shamsheer Singh.

Mr. Akshay Bhan, Senior Advocate with Mr. Samir Malik, Advocate and Mr. Pulkit Malhotra, Advocate and Ms. Iti Aggarwal, Advocate for the complainant - UHBVN.

Code of Criminal Procedure, 1973 (2 of 1974), Section 438 -- Indian Penal Code, 1860 (45 of 1860), Sections 120-B, 406, 417, 420, 465, 468, 471, 476 – Prevention of Corruption Act, 1988 (49 of 1988), Section 8, 9 – Corruption case – Anticipatory bail – Many officials of the Nigam, nominated as accused in the FIR on the basis of documentary evidence are regularly attending the office after registration of FIR -- With respect to the disputed quantum of contract work executed by the firm of the petitioner, an Arbitrator has already been appointed by High Court – No cogent and convincing reason has been brought-forth as to why the custodial interrogation of the petitioner would be required -- Petition allowed and interim order made absolute subject to the conditions laid down in Section 438 (2) Cr.P.C.

(Para 5-7)

MANJARI NEHRU KAUL, J. (ORAL) –

1. Prayer in this petition is for grant of concession of anticipatory bail to the petitioner in case FIR No.4, dated 05.08.2020, registered under Sections 120-B, 406, 417, 420, 465, 468, 471, 476 IPC and Sections 8 and 9 of Prevention of Corruption Act, 1988 registered at Police Station Gandhi Nagar, Yamuna Nagar.

2. Learned Senior counsel for the petitioner submits that pursuant to the order dated 31st August, 2020, passed by this Court, the petitioner has joined investigation.

3. Learned State counsel on instructions from DSP Shamsheer Singh, has submitted that though the petitioner has joined the investigation, however, he has not been cooperating and hence, his custodial interrogation is required for the recovery of certain documents as well as dismantled scrap.

4. I have heard learned counsel for the parties and gone through the

replies filed by the State as well as the complainant – UHBVN (Nigam).

5. Admittedly, the petitioner as also the co-accused, who happen to be officials of the Nigam, have been nominated as an accused in the FIR in question on the basis of documentary evidence. It transpired during the course of hearing that many of the co-accused, who are officials of the Nigam and who had allegedly connived with the petitioner, had been and have still been regularly attending the office subsequent to the registration of the FIR against them. Still further, on a pointed query put to the learned Senior counsel for the complainant – Nigam *qua* the contrary stands taken by them during different proceedings before different fora with respect to the quantum of contract work, allegedly executed/not executed by the petitioner, it was stated that they were still in the process of probing the role of senior and other officials of the Nigam, who had given in writing at different stages varying percentage of work allegedly executed by the petitioner's firm, which also included an office memo bearing No. 11/REC Scheme No. 7531, dated 13.02.2015, wherein, it had been categorically mentioned by the Chief Engineer of the Nigam that 70% of the work had been executed by the petitioner. Strangely, when the learned Senior counsel for the complainant - Nigam was confronted with the contents of the aforementioned office memo dated 13.02.2015, it was submitted that the percentage of work i.e. 70%, as mentioned by the said Chief Engineer in the memo was tentative and based on unverified information given by the regional officers, which could not be considered conclusive in nature. When a further query was put to the learned Senior counsel for the complainant – Nigam, as to whether any action had been initiated against the said official as well as other regional officers with respect to the aforesaid office memo issued by the Chief Engineer on the basis of an unverified information, he yet again submitted that the Nigam was contemplating probe in the matter. Still further, when the learned Senior counsel for the complainant – Nigam was pointedly asked if subsequent to the issuance of the aforesaid memo of the Chief Engineer, any refutation had been issued by the complainant - Nigam, with respect to the 70% of the contract work not having been executed by the petitioner's firm, there was no clear-cut answer forthcoming.

6. In the wake of the aforementioned, no cogent and convincing reason has been brought-forth as to why the custodial interrogation of the petitioner would be required, as admittedly, the petitioner has been nominated as an accused on the basis of documentary evidence and coupled with the fact that with respect to the disputed quantum of contract work executed by the firm of the petitioner, an Arbitrator has already been appointed by this Court vide order dated 13.03.2020.

7. Accordingly, the present petition is allowed and interim order dated 31.08.2020 is made absolute subject to the conditions laid down in Section 438 (2) Cr.P.C.

Petition allowed.
