



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

CRM-M No.29795 of 2024

Reserved on : 6th February, 2025
Pronounced on : 14th February, 2025

Harvinderjeet Singh Sandhar @ Harvinderjit Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by: Mr. Rahul Sharma, Advocate for the petitioner.

Mr. Amit Rana, Sr. Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of bail under Section 438 of the Cr.P.C. in case FIR No.26 dated 30.09.2023 under Sections 166, 177, 210, 406, 409, 418, 420, 120-B of the IPC and Section 7 of the Prevention of Corruption Act, 1988 [as amended by Prevention of Corruption (Amendment) Act, 2018] registered at Police Station Vigilance Bureau Range Jalandahr, District Jalandhar.

SUBMISSIONS ON BEHALF OF THE PETITIONER

2. Learned counsel for the petitioner contends that no specific role has been attributed to the petitioner in the FIR (Annexure P-1), and he has been implicated solely due to his position as a Director in M/s

Wahid Sandhar Sugar Mills Ltd., M/s Jagatjit Sugar Mills Ltd. and M/s Fitness Private Ltd.

3. Learned counsel has drawn the attention of this Court to the FIR and argued that it is based on the erroneous assumption that the order of the Maharaja of Kapurthala dated 09.02.1933 prohibited the mortgage of land owned by M/s Jagatjit Sugar Mills Ltd. However, a perusal of the said order (Annexure P-2) reveals that no such restriction was imposed. Thus, the very foundation of the FIR is false and based on an incorrect premise.

4. Learned counsel further submits that the Civil Court vide its judgment and decree dated 16.02.2013 in Civil Suit No.11 of 19.01.2009, declared M/s Jagatjit Sugar Mills Ltd. as the owner in possession of land measuring 251 Kanals – 18 Marlas. Consequently, there was no legal bar on the Company mortgaging the said land, and neither the Company nor its Directors can be held criminally liable for such a transaction, particularly, when the said judgment and decree remain in force and have not been set aside by any Court of competent jurisdiction.

5. It is further contended that the petitioner is neither a signatory to the mortgage deed, lease deed, nor the sale deed mentioned in the FIR. In the absence of any active participation in the alleged offence or any specific attribution of wrong doing, the petitioner cannot be held liable. While relying upon '**Shiv Kumar Jatia vs. State of NCT Delhi**' 2019(17) SCC 193, learned counsel has further argued that in the

absence of a mandate, vicarious liability cannot be imposed on a Director merely due to his position in the Company. It must be established that the Director played an active role in the commission of the alleged offence with the requisite criminal intent.

6. It is also submitted that the petitioner derived no financial benefit from the transactions in question, as he did not own any shares in M/s Wahid Sandhar Sugar Mills Ltd., the Company that secured a loan from the State Bank of India (SBI). In the absence of any financial gain or personal interest, no criminal liability can be fastened upon him.

7. During the investigation, even the Tehsildar and Naib Tehsildar were found to be innocent, thereby negating any collusion between Government officials and the Directors of the Company. Furthermore, no official from SBI has been named as an accused, and the loan account in question has not been declared Non-Performing Asset (NPA), thereby indicating that no wrong-doing took place in the loan transaction.

8. While drawing the attention of this Court to Annexures P-9 and P-10, learned counsel has highlighted that co-accused Kulwant Singh and Aman Sharma, who were also Directors of the Companies, have already been granted anticipatory bail by a Coordinate Bench of this Court.

9. Lastly, it is submitted that the petitioner has complied with the order dated 13.06.2024 by joining investigation and fully cooperating with the investigating agency. Hence, in the circumstances,

the order dated 13.06.2024 be made absolute as the custodial interrogation of the petitioner would not be required in the present case.

SUBMISSIONS ON BEHALF OF THE STATE

10. Learned State counsel, while opposing the prayer and submissions made by learned counsel for the petitioner, has submitted that the petitioner, in collusion with other Directors, caused wrongful loss amounting to crores of rupees to the State Government while unlawfully enriching himself and others.

11. It is contended that the petitioner played an active role in the illegal sale of Government owned land measuring 6 Kanals 4 Marlas. Being a Director of M/s Jagatjit Sugar Mills Ltd., he passed a resolution which bears his signatures, authorising co-Director Jaswinder Singh Bains to sign the documents related to the sale of the said land. Thus, the claim that the petitioner had no role in the office in question, is untenable.

12. It has further been asserted by the learned State counsel that the sale in question was executed without obtaining permission from the Government and in violation of the order of Maharaja of Kapurthala. Since the Company had no authority to sell the land, the transaction resulted in huge losses running into crores of rupees to the Government.

13. It is further argued that the petitioner was directly responsible for securing a loan of ₹93.00 crores from SBI by illegally mortgaging Government land, despite being aware that the land

belonged to the State. Moreover, he facilitated the authorised sale of 6 Kanals 4 Marlas of Government land without any authority or justification.

14. Learned State counsel has submitted that the case of the petitioner is distinguishable from that of co-accused Kulwant Singh and Aman Sharma, by asserting that unlike them, the petitioner was directly involved as he was one of the Directors who authorised Jaswinder Singh Bains to execute the sale deed dated 11.04.2017.

15. However, learned State counsel, on instructions, has not disputed that the petitioner has complied with the order dated 13.06.2024 and joined investigation and cooperated with the investigating agency. However, the learned State counsel submits that custodial interrogation of the petitioner is required to ascertain the involvement of the other individuals and to recover the sale proceeds.

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

17. The core allegation in the FIR in question is that the land measuring 251 Kanals 18 Marlas was Government property and, as per the order dated 09.02.1933, could neither be mortgaged nor sold.

18. It is undisputed that M/s Jagatjit Sugar Mills Ltd., through its Director Jaswinder Singh Bains, filed Civil Suit No.11 of 19.01.2009, seeking a declaration of ownership over the land. The Civil Court, vide judgment and decree dated 16.02.2013, declared the Company as owner in possession of the said land.

19. Though the learned State counsel argued that the judgment was obtained fraudulently, as the State of Punjab was not impleaded as a party, it is an admitted fact that the decree remains in force and has not been set aside by any competent Court.

20. The scope of this Court, while deciding the instant petition under Section 438 of the Cr.P.C. does not extend to examining the legality or correctness of the decree passed by the Civil Court. As of now, M/s Jagatjit Sugar Mills Ltd. continues to be recognized as owner in possession of the land.

21. The mortgage deed was executed on 29.05.2019, subsequent to the decree passed by the Civil Court, in favour of State Bank of India (SBI) to secure a loan of ₹93.94 crores. It is not disputed that the petitioner was neither a signatory to the mortgage deed nor to any related loan document, as evident from Annexures P-4 to P-6. Further, the loan account remains regular and has not been declared Non-Performing Asset (NPA). Notably Rupinder Kaur Wahid, another Director and the principal borrower, has already been granted regular bail.

22. Furthermore, the report of the Naib-Tehsildar (Annexure P-3) specifically notes that the order of the Maharaja of Kapurthala dated 09.02.1933 permitted the Mill owners to obtain loan against the land.

23. As for the sale of 6 Kanals 4 Marlas of land, the transaction must be viewed in the context of the decree passed by the Civil Court,

which had declared M/s Jagatjit Sugar Mills Ltd. as the lawful owner in possession of the entire 215 Kanals and 18 Marlas of land.

24. Although the allegations with regard to tampering of revenue record have been raised, but there is no specific allegation against the petitioner with regard to his involvement. Furthermore, the aforesaid issue remains a matter of trial.

25. The petitioner has no previous criminal antecedents, has complied with the directions of this Court dated 13.06.2024 and cooperated with the Investigating Agency. Furthermore, co-accused Kulwant Singh and Aman Sharma, who were similarly placed, have been granted anticipatory bail by a Coordinate Bench of this Court. In the circumstances, the petition is allowed and the interim order dated 13.06.2024 is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C./Section 482(2) BNSS. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the bail granted to him.

(MANJARI NEHRU KAUL)
JUDGE

February 14, 2025

rps

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