

**IN THE COURT OF SHRI PUSHVINDER SINGH, ADDITIONAL
SESSIONS JUDGE, GURDASPUR.**

Bail Application No. 218 of 02.06.2018

CIS No. BA 1432-2018

Date of order: 25.07.2018

**Sanjeev Gupta son of Roshan Lal, resident of Kothi No. 5, Gopal
Nagar, Batala, District Gurdaspur,;**

C/o M/s Balaji Builders, Batala, District Gurdaspur.

.....Accused/applicant.

Versus

State of Punjab

.....Respondent.

FIR No. 13 of 08.08.2017

P.S. Vigilance Bureau, Amritsar.

U/s 409/420/467/468/471/120-B/201 IPC

Read with Section 13 (1) (d)/13(2)

Prevention of Corruption Act, 1988.

(1st Bail application under Section 438 Cr.P.C.)

**Present: Sh. Rajinder Mohan Zakhmi, Advocate counsel for
accused/applicant.**

Sh. Kiran Kumar, Addl. P.P for the State.

ORDER:-

1. This application has been filed by applicant/accused Sanjeev Gupta for Anticipatory Bail, stating that applicant/accused has no role to play in the official papers prepared by the officials of the department. The facts have been distorted in order to cause prejudice to the applicant. All the payments have been made against duly executed works by the petitioner's firm. On the contrary, the applicant/accused has not received the total amount as per alleged tenders. The applicant/accused has not

received any amount which is more than the amount as mentioned in the allotted tenders of the Bridge and School and still the amount of applicant/accused is due to Government/authorities. No offence under Section 409 of IPC or Section 13 (1) (d)/13(2) of Prevention of Corruption Act is made out against the present applicant/accused as he is not a Public Servant. There is no allegation against the applicant/accused that he has forged and fabricated any document or there is any entry in the hand of applicant on any document alleged to be forged and fabricated. The applicant/accused has not committed any offence and the allegations leveled against him are vague and baseless and the present case has been got registered against the applicant/accused on account of departmental rivalry among the senior officers and the applicant/accused has been falsely implicated in the present case at the instance of senior officers.

2. Notice of application was given to the State. Additional PP appeared and opposed the bail application. IO came present along with police file.

3. I have heard learned APP for the State and learned counsel for the accused /applicant and also gone through the police record very carefully.

4. From perusal of the police file, I find that this case was registered on the basis of an inquiry wherein it was found that construction of bridge over UBDC Canal at village Babbekali was given/allotted by Sukhdev Singh, XEN through E-tender to M/s Balaji for Rs.1,69,69,699/- on 15.07.2015. The said work of bridge was to be completed within stipulated period of six months. It has been further alleged that at the site the less work to the tune of Rs.7,50,805/- was done

out of total amount paid to the contractor. It has also been alleged that on asking of Parminder Singh Tiwana XEN and PWD Batala Kawaljit Singh JE showed false entry in measurement books and prepared a bill of Rs.1,07,10,948/- and this amount was subsequently showed towards the construction of meritorious school in wrong manner. It has also been further alleged that amount of Rs.5,85,713/- was paid to purchase the steel but there was no steel lying at the spot.

Learned counsel for the applicant/accused has contended that the case was registered under Section 409/420/467/468/471/201/120-B IPC read with Section 13 (1) (d)/13 (2) of Prevention of Corruption Act. The applicant/accused is not a Government Servant. So, no offence is made out against him for the commission of offence punishable under Section 409 IPC and under Prevention of Corruption Act. He further contended that there is no allegations against the applicant/accused that he forged any document and made entry in the record. So, the offences under Section 467/468/471/201 IPC is also not made out against him. So, far as the offence under Section 420 is concerned, he never induced to any official to make the payment and in fact a committee was constituted and in its report the committee, said that work done at site in question is of the amounts of Rs.2864.14 lakhs, and till December 2016 contractor has received an amount of Rs.23,68,53,841/- which is less than the work done at the spot as per report of committee. He further contended that the amount of Rs.5,85,730/- which was released for steel bars, the steel bars were lying at the steel store. He requested that the applicant/accused has not committed any offence on the other hand Additional Public Prosecutor has contended that the applicant/accused did not complete the work of

Bridge and received amount for the construction of bridge wrongly and thereafter, got converted the said amount against the construction work of meritorious school.

After hearing learned counsel for the applicant/accused and Additional PP for the State, I find that as per allegations of the prosecution construction of bridge and a meritorious school for given to the same contractor M/s Balaji Builders through the applicant. Construction work of bridge was started and the work of construction of bridge was done only for 15 days as the water of canal was stopped only for 15 days i.e. 27.11.2015 to 22.12.2015. As, per allegations of the prosecution the payment of construction of bridge was made to the applicant/accused by the officials but after making an entry in the record the said payment was adjusted in the payment of construction of meritorious school and as per technical report submitted by the executive engineer/TT1 Vigilance Bureau, Punjab Chandigarh submitted to the SSP Vigilance Bureau Amritsar dated 05.06.2018, I find that it has been stated that other accused persons i.e. the officials of PWD have violated the rules and payment of Rs.5,87,718 was made for Iron rods for construction of bridge but said Iron rods were not found at the site and in the earlier running bill access amount of Rs.7,50,805/- has been paid to the contractor i.e. applicant/accused. The applicant/accused has alleged that Iron bars were lying in the steal store and no access amount has been paid to him. In fact the assessment of work done was not made properly as it was made when the water was running in canal. In these all circumstances, I find that allegations against the applicant/accused are only with regard to calculation of amount and for the purpose of any

investigation, custodial interrogation of applicant/accused is not required. The purpose of investigation can be served, if he joins the investigation. So, applicant/accused is directed to join the investigation within 7 days and on doing, so, he shall be released on interim anticipatory bail on furnishing bail bond and surety bond as per own satisfaction of investigating/arresting officer. Accused/applicant shall co-operate with the investigating agency and shall abide by the terms and conditions of section 438 (2) Cr.P.C. Now to come upon 10.08.2018 for further proceedings.

**(Pushvinder Singh),
Additional Sessions Judge,
Gurdaspur**

Pronounced: 25.07.2018
Raghubir Singh, Stenographer-III,

Sanjeev Gupta Vs. State of Punjab

Present: Sh. Rajinder Mohan Zakhmi, Advocate counsel for
accused/applicant.
Sh. Kiran Kumar, Addl. PP for State.

I.O came present along with police file. Arguments heard
vide my separate detailed order applicants/accused is directed to join the
investigation within 7 days. Now, to come upon 10.08.2018 for further
proceeding.

**(Pushvinder Singh),
Additional Sessions Judge,
Gurdaspur**

**Pronounced: 25.07.2018
Raghubir Singh, Stenographer-III**