

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24272-2024
Reserved on: 11.11.2024
Pronounced on: 28.11.2024

Satpal ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Abhaysher Singh, Advocate,
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
69	19.04.2024	City-1, Abohar, Distt. Fazilka	420, 120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 of CrPC, [BNSS], seeking anticipatory bail.
2. In Note (iii) of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply dated 08.08.2024, filed by the concerned DySP, which reads as follows:

“4. That it is respectfully submitted that the present case has been registered on the basis of an application submitted by Block Development and Panchayat Officer, Abohar vide application no.4798 dated 16.08.2023 in which it has been alleged that Manoj Kumar, Secretary of Village Panchayat of Dhani Chirag informed BDPO, Abohar that approximately Rs.10,00,000/- have been withdrawn from the bank account no. 501003816xxxxx of 15th Finance Commission of HDFC, Branch Abohar from 15.07.2023 to 23.07.2023 by using ATM Card on different date and at different ATM Centres. It has been specifically recorded in the application that no ATM card is issued to the account holder of Government Bank Account of 15th Finance Commission because payment

is to be made to the concerned firm through cheque or PFMS only on the basis of a resolution passed by the concerned Gram Panchayat. The bank accounts of each Gram Panchayat are being operated jointly by Block Development and Panchayat Officer, Panchayat Secretary and Village Sarpanch. So, it is the responsibility of the concerned bank that no ATM card should be issued at the time of opening the bank account of the Gram Panchayat and it should be ensured at the time of making payment that all the requisite formalities have been completed or not. It is further requested that an inquiry may be conducted from Manoj Kumar, Panchayat Secretary, Ram Lal, Village Sapranch of Gram Panchayat, Dhani Chirag and the concerned officials of HDFC Bank, Branch Abohar and take suitable action accordingly.

5. That on receipt of the said application, a preliminary inquiry was conducted by Inspector Sunil Kumar, SHO, Police Station City-1, Abohar. From the preliminary inquiry it is found that ATM cards were not issued in case of Government Bank accounts by the concerned bank as per the policy and if the same has been issued, then it is the responsibility of the concerned bank to block the said ATM cards. In this case, as per the report of HDFC Bank, Branch Abohar, 51 bank accounts were opened in related to 15th Finance Commission of Gram Panchayat and 32 ATM cards were issued by the officials of HDFC Bank, Branch Abohar out of the said 51 bank accounts. So, Sumit Chabra, the then Bank Manager, Satpal son of Om Parkash an employee of HDFC Bank now petitioner, Arish Singla son of Rakesh Kumar, Sunil Kumar son of Om Parkash, resident of Killianwala are liable to be investigated by registering a case. A recommendation was made that during the course of investigation, if the connivance of Panchayat secretary, any other bank official or any other person is found, then action may be taken accordingly. A detailed preliminary inquiry report dated 16.01.2024 was submitted by SHO, Police Station City-1, Abohar.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

"9. ROLE OF THE PETITIONER

That from the investigation, it is found that accused Satpal now petitioner was posted as Assistant Manager in HDFC Bank, Branch Abohar at the time of commission of offence. The Kit after opening the bank account in HDFC Bank, Branch Abohar were in the possession of accused Satpal. As per record, accused Satpal now petitioner supplied the said complete Kit's to the customers i.e. Iqbal Singh the then Panchayat Secretary of Dhani Chirag on 19.10.2020 and others whereas the applications/Account Opening Forms were submitted by the concerned account holders to open the bank accounts only on 28.10.2020. It is pertinent to mention here that in the Kit the following necessary particulars are required to be filled by the account holder i.e. Account number, Customer ID, Debit Card, Debit pin, cheque book with five leaves. Thus the said particulars cannot be furnished by the account holder until and unless the account has not been opened. In this case, the said Kits were supplied to the said account holders by accuse Satpal now petitioner which are antedated and it shows that accused Satpal now petitioner obtained the signatures of the concerned account holders that the Kits have been supplied to them without opening bank accounts, thus accused Satpal did not supply the Kits to the account holders but he obtained the signatures in advance prior to the opening of the bank accounts."

7. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence is prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

8. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a

Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. This order is subject to the petitioner's complying with the following terms.

12. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

13. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

14. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

15. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
16. Before parting, making the following directory observations is expedient so that frauds like these cannot occur.
17. **Let the concerned officials of the Reserve Bank of India deliberate on this issue and consider issuing directions to all the banks that no ATM cards/ Debit Cards/Credit Cards form part of the account opening kits.**
18. The Registry will send a copy of this order to the Reserve Bank of India, Bombay, for appropriate action.
19. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.
20. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

28.11.2024
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.