IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-2147 of 2015(O&M)
Date of decision: 18.05.2015

Dr. Sucha Singh Dhaliwal

----Petitioner (s)

V/s

State of Punjab

-----Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Amar Vivek, Advocate
for the petitioner(s).

Mr. Sultan Singh Gill, DAG, Punjab.

Mr. Sumeet Mahajan, Sr. Advocate with
Mr. Amit Kohar, Advocate
for the complainant.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 438 CrPC is for grant of anticipatory bail to the petitioner in case FIR No.130 dated 01.12.2014 under Sections 406 and 420 IPC registered at Police Station Mahilpur, District Hoshiarpur.

Vide complaint dated 20.3.2014, addressed to the Deputy Superintendent of Police, Garshankar, the complainant had requested for registration of case of embezzlement, fabrication of false record, tampering with the accounts books and illegal disposal of the accounts books against the petitioner and one Santokh Singh, Accountant of Sant Baba Hari Singh Memorial Khalsa College of Foundation, Mahilpur run by Sikh Educational Council, Mahilpur, District Hoshiarpur. The said FIR was registered by the Principal Secretary of the Sikh Educational Council, a registered society. The Council is running various colleges in the area. As per the contents of FIR, the petitioner was appointed as Principal of the aforesaid education college and he being Principal, it was incumbent upon him to maintain the whole records with the help of clerical staff i.e. fee receipts and expenditure, salaries and other day to day working of the college. The entire amount of collection of fee is to be deposited in the account of the college and withdrawal of the amount, if any, is required to be signed by the Principal and either the Manager or the President of the Council. However, the Council noticed that the huge amount of fees, though has been collected by the college from the students, but the same has not been deposited/accounted for in the account of the college and rather, the petitioner was getting/extorting Rs.9,000/- per month from each of the teachers on the pretext that otherwise, they will not be given permanent appointment letters. In case such amount was not paid, they were put to the threat of suspension also. In this manner, the petitioner has collected huge amount. Fed up with such arbitrary collections, most of the teaching staff gave in writing to the management about the action of the petitioner/Principal. The FIR also contains that the petitioner has collected Rs.25,000/- from each of the teachers working in the college on the plea of Annual Youth Festival of the University to be held in October, 2013. On checking of records by the management, it was also noticed that one Prof. Sandip Kumar, who though left for abroad since July, 2013 and had also not obtained ex-India leave, but his salary is being transferred in his account regularly. When the fact of tampering of receipt books, record of the college and embezzlement of huge amount came to the notice of the management, the team of the management tried to go through the records and therefore, asked the petitioner and the Accountant to produce the record of fee collection, receipt books, expenditure books, firstly, they avoided it for few days and since 2/3 March, 2014, both of them absconded. On checking, it was found that the entire record has been taken away by these two persons. On the basis of investigations, the management reached to a situation where an amount worth more than Rs.45 to 50 lacs has been found embezzled by these two persons. On the basis of the contents of the aforesaid complaint, the instant FIR was registered.

Petitioner approached learned Additional Sessions Judge (Ad hoc), Fast Track Court, Hoshiarpur for grant of anticipatory bail as provided under Section 438 CrPC. However, vide order dated 12.1.2015, the bail application of the petitioner was dismissed.

Apprehending his arrest and aggrieved with the rejection of anticipatory bail application by the learned Additional Sessions Judge, Hoshiarpur dated 12.1.2015, the petitioner has filed the instant petition seeking anticipatory bail.

Mr. Amar Vivek, learned counsel for the petitioner submits that the petitioner is a responsible person. Petitioner has neither dealt with nor was entrusted any funds of the college. Petitioner was never a Drawing and Disbursing Officer of the college, rather such powers were being used by Sh. Surjeet Singh Randhawa, the Principal of the Degree College. He had submitted a notice of his resignation on 13.3.2014, but instead of accepting his resignation, he has rather been placed under suspension vide letter dated 14.3.2014. The allegations of embezzlement, as made in the FIR, are false and motivated. Moreover, there is no recital about allegation of embezzlement even in the order of suspension dated 14.3.2014. He further submits that the allegation against the petitioner that he was getting/extorting about Rs.9,000/- per month from each of the teachers on the pretext that otherwise they will not be given permanent appointment letters, is wholly misconceived. He has not collected such amount. Similarly, the allegation of collection of Rs.25,000/- from each teacher, on account of Annual Youth Festival to be held in October, 2013, is also false.

He further argued that even the co-accused Santokh Singh has already been admitted to regular bail by learned Additional Sessions Judge, Hoshiarpur.

Learned counsel for the petitioner further submits that the petitioner is ready to account for the amount deposited by the students and is also ready to explain the financial transactions. The petitioner was suspended on 14.3.2014, but there is no such allegation in the order of suspension, as has been projected in the FIR and thus, he deserves the concession of anticipatory bail.

On the other hand, learned State counsel submits that the petitioner has embezzled huge amount and he is not accounting for the amount collected on account of fees etc. Instead of giving details of receipts and expenditures, he has taken away the whole record, which establishes his involvement in the embezzlement and his bent of mind to tamper with the record.

Mr. Sumeet Mahajan, learned senior counsel appearing on behalf of the complainant has reiterated the similar arguments, as put forward by learned State counsel.

I have heard learned counsel for the parties.

Having considered the contents of the FIR and serious allegations of embezzlement of fees, as collected from the students, cash received from the members of the staff, no case for grant of anticipatory bail is made out. Petitioner stated to have collected money on account of organizing the Annual Youth

Festival and this amount has also been embezzled by him. Further, there are also allegations of tampering and fabrication of record and forcible removal of record. The record taken away by the petitioner is required to be recovered from him.

Thus, petitioner has failed to persuade this Court for the relief claimed and therefore, no case of grant of anticipatory bail is made out. Accordingly, present application for anticipatory bail is dismissed.

However, the expression made here-in-above shall not be construed any expression on the merit of the case and is only for the purposes of disposal of this bail application.

May 18, 2015 **(HARI PAL VERMA)**
ak **JUDGE**