

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

CRM-M -8603 of 2016 (O&M)

Date of decision: 05.09.2016

Jaivinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Paras Talwar, Advocate
for the petitioner.

Mr. Harsimrat Rai, DAG, Punjab
assisted by ASI Jagtar Singh.

Mr. Anupam Gupta, Sr. Advocate with
Mr. G.S. Nahel, Advocate and
Mr. R.S. Sidhu, Advocate for the complainant.

Jitendra Chauhan, J. (Oral)

By filing the present petition under Section 438 of the Code of Criminal Procedure, the petitioner has sought anticipatory bail in FIR No.10, dated 16.02.2016, registered under Sections 406, 408, 420 and 120-B IPC, at Police Station Cheema, District Sangrur.

On 11.04.2016, this Court had passed the following order:-

*“Petitioner seeks concession of pre-arrest bail in case
FIR No.10 dated 16.02.2016, under Sections
406/408/420/120-B IPC, registered at Police Station*

Cheema, District Sangrur.

Upon notice of motion having been issued, learned State counsel has produced for perusal of this Court copy of the inquiry report dated 12.02.2016 of the Deputy Superintendent of Police, Sub Division, Sunam.

Mr. Anupam Gupta, learned senior counsel has put in appearance for the complainant and has vehemently opposed the present petition. It has been submitted that Akal Academy, Cheema was established by the Kalgidhar Trust and land for the same was leased for 99 years by the Shiromani Gurdwara Parbandhak Committee and the entire cost of construction was borne by the Kalgidhar Trust through its own funds. The present petitioner was one of the trustees of the Kalgidhar Trust. It has been contended that between 21.11.2015 and 18.12.2015, he has un-authorizedly collected a sum of Rs.24 lacs from the then Principal, Akal Academy, Cheema Sahib and the funds so collected have been embezzled. Learned senior counsel would submit that even three vehicles belonging to the trust have been sold off by the petitioner on forged and fake documents. Furthermore, construction activity at Village Rajia was started without permission from the trust. While opposing the present petition, it is contended that there has been embezzlement of about Rs.40 lacs which was donation in the form of grains collected from the villagers and such donation was to the Trust. It has been argued that the petitioner has breached all norms of the Trust by releasing huge amounts in favour of a Contractor towards construction activity and by way of cash and which was not permissible. Even the conduct of the petitioner has been adversely commented upon by the learned senior counsel by contending that the petitioner had attempted to take forcible occupation of the Akal Academy, Cheema Sahib and

thereafter with the support of his henchmen had even prevented representatives of Akal Academy, Cheema Sahib from entering the premises. It is argued that against the backdrop of such serious allegations and conduct of the petitioner, he is not entitled to the concession of anticipatory bail.

During the course of arguments, it has transpired that a complaint dated 18.01.2016 was made by the Secretary, Kalgidhar Trust, V.P.O. Baru Sahib, District Sirmour, Himachal Pradesh to the Deputy Commissioner, Sangrur with regard to embezzlement/defalcation of funds by the present petitioner. CRM No.M-3030 of 2016 was even filed before this Court by the complainant seeking directions for the police to register a case based on the accusations noticed hereinabove against the petitioner. The petition was disposed of by this Court on 28.01.2016 directing the Deputy Commissioner/District Magistrate to decide the representation. In pursuance to such directions, inquiry had been marked to the Deputy Superintendent of Police, Sunam to go into the allegations.

The inquiry report dated 12.02.2016 furnished by the Deputy Superintendent of Police, Sunam and made available by learned State counsel has been perused. As per inquiry report, insofar as allegation of misappropriation of a sum of Rs.24 lacs, it has been concluded that such amount has been released to Harwinder Singh Contractor for construction of Gurdwara at Village Daula. As per inquiry report, the petitioner had not obtained prior written permission from the Trust for releasing such payment but it has been noticed that a cheque amount of Rs.5 lacs had been released to H.S. Builders under whom such Contractor was working and even correspondence through e-mail was gone into which prima facie indicated that the matter pertaining to

construction of building of Gurdwara Sahib was within the knowledge of Kalgidhar Trust, Baru Sahib. Prima facie conclusion drawn is that the amount in question has not been misappropriated though the petitioner appears to have violated certain norms. As regards allegation of selling of three vehicles of Akal Academy, Cheema Sahib, such allegations have been found to be false. Furthermore, inquiry report reveals that pertaining to allegation regarding construction at Village Rajia and without due permission from the Trust, it has been opined that photographs were produced showing that the foundation stone had been laid by Baba Iqbal Singh, Baru Sahib and which in turn also would indicate that the Trust was aware of such construction activity being undertaken. The allegation of even misappropriating the donation made by the villagers in the form of grains have not been proved as the Inquiry Officer has stated that no proof in this regard was produced by the Trust.

Under such circumstances, this Court is inclined to extend in favour of the petitioner ad interim protection as regards arrest subject to his joining investigation. Further such concession is being granted on the condition that the petitioner would not make any attempt, direct or indirect, to interfere in the affairs of Akal Academy, Cheema Sahib as this Court has been apprised that the petitioner already stands suspended w.e.f. 08.01.2016.

List for further consideration on 23.05.2016.

To be heard along with CRM No.M-7801 of 2016 (Baljeet Kaur vs. State of Punjab).

In the meanwhile, petitioner is directed to appear before Investigating Officer and to join investigation. In the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the

Arresting/Investigating Officer. The petitioner shall join investigation as and when called upon to do so and he shall remain bound by the conditions envisaged under Section 438(2) Cr.P.C.”

It is contended that in pursuance of the order dated 11.04.2016, the petitioner has joined the investigation.

The learned State counsel, on instructions, submits that the petitioner has joined the investigation and he is not required for custodial interrogation.

In view of the above, without expressing any opinion on the merits of the case, the interim bail granted by this Court vide order dated 11.04.2016, is made absolute, subject to the conditions contained in Section 438(2) Cr.P.C.

The petition stands allowed.

05.09.2016

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes No

Whether Reportable: Yes No