IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRL. MISC. No.M-23409 OF 2016
DATE OF DECISION : 22nd SEPTEMBER, 2017

Rajender Kumar

…. Petitioner

Versus

State of Haryana

…. Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

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

Mr. Chetan Sharma, AAG, Haryana.

Mr. Sumit Narang, Advocate for respondent No. 2.

* * * *

A. B. CHAUDHARI, J.

The petitioner has filed this petition under Section 438 Cr.P.C. seeking anticipatory bail in FIR No.253 dated 11.06.2016 registered under Sections 420, 406 & 409 IPC at Police Station City Bahadurgarh, District Jhajjar.

Chief Manager, State Bank of India, Bahadurgarh lodged a complaint against the petitioner-Rajinder Kumar, Deputy Manager, with the Superintendent of Police, Jhajjar stating therein that the petitioner had defrauded the complainant-Bank in the sum of ₹67.49 lacs during his tenure at the branch from 2012 to 2013. Thereafter departmental enquiry was held against him and was dismissed from service.

Insofar as the FIR is concerned the investigating officer has filed his reply in affidavit of Jaibir Singh Rathee, HPS, Deputy

Superintendent of Police, Bahadurgarh. I quote the relevant portion of the reply which read thus:

> "2. That during investigation Chief Manager State Bank of India, Bahadurgarh gave letter dated 30.09.2016 and submitted that no amount has been returned by Rajender Kumar Bhathla to the Bank from the embezzled amount. However the bank has paid a sum of Rs.3,50,350/- (rupees three lacs fifty thousand three hundred fifty only) till date in two customers PPF accounts, who had complained to the Bank through Banking Ombudsman, Reserve Bank of India, New Delhi.
>
> 3. xxx... xxx... xxx...
>
> 4. That the Bank has released the gratuity amount of Rs.10,00,000/- and interest on gratuity amount etc. to the petitioner and petitioner totally received Rs.14,89,762/- from the Bank.
>
> 5. That as per banks letter dated 22.11.2016 an amount of Rs.67.49 lacs has been embezzled by the petitioner/accused Rajinder Kumar and no amount has been returned by the petitioner/accused to the bank till date. Whereas the bank has paid sum of Rs.3,50,350/- in two PPF accounts of customers namely Jagdish Chander and Smt. Bimla Sindhu.

> 6. That as per the Hon'ble Court direction petitioner/accused Rajender joined the investigation first time on dated 31.08.2016 and thereafter again joined investigation on 24.12.2016 in presence of Ms. Preeti Sharma, Chief Manager State Bank of India Railway Road Bahadurgarh, but petitioner/accused did not co-operate and also did not disclose as to how much amount has been embezzled. Petitioner/accused further did not disclose details of accounts from which amount has been misappropriated. But every time petitioner/accused did not co-operate."

It is clear from the above affidavit in reply that the petitioner did not pay back any amount to the bank and has remained contented with misappropriation of amount of ₹67.49 lacs. The Bank readily released ₹14,89,762/- to him. On the contrary, as submitted in para 6 of the reply, he has not been cooperating with the investigating officer though this Court had granted him interim order on the condition of joining the investigation and cooperating with the Police Officer. During the course of hearing before this Court, the petitioner time and again repeated to this Court that with the help of affidavits from the bank stating that the petitioner had paid back the entire amount but for small amount in the sum of ₹8,78,713/- plus interest out of which the bank had paid a sum of ₹33,350/-. The submission was being made on the basis of the tricky affidavit filed by Smt. Preeti Sharma, Chief Manager, State

Bank of India, Railway Road, Bahadurgarh vide para 6 thereof, which I quote hereunder:

> "6. That out of aforesaid embezzled amount of Rs.67,49,345/- (Annexure-A), there are 180 cash deposit entries amounting to Rs.24,77,975/- done by Sh. Bathla under his ID1579827 in the accounts of his relative/friends as stated in Annexure –B enclosed. These cash deposits seem to have been made by diverting funds of banks customers as particulars of these cash deposits are unexplained and in most of the entries, vouchers have not been prepared. Out of Rs.67,49,345/- Sh. Rajender Kumar Bathla has not returned Rs.8,78,713/- plus interest (Annexure-C). Out of said amount of Rs.8,78,713/-, on claim by two customers, the Bank has paid a sum of Rs.3,50,350/- to them as under.
>
> (a) Amount paid to Jagdish Chander – Rs.2,00,000/- + interest Rs.33,350/- Total Rs.2,33,350/-
>
> (b) Amount paid to Smt. Bimla Sidhu – Rs.1,00,000/- + Interest Rs.17,000/- Total Rs.1,17,000/-.
>
> Total Rs.3,50,350/-

The perusal of above affidavit shows that out of ₹67,49,345/- petitioner has not returned ₹8,78,713/-, to convey that the entire balance amount of ₹58,70,632/- was returned by the petitioner. It is clear that the said affidavit was provided by the said officer with a view to help the petitioner. However, investigation report now shows that no amount has come back from the petitioner to the Bank out of the huge embezzled amount of ₹67.49 lacs. This Court had time and again given chances and chances to the bank to come clean before this Court. The reason was that despite fully knowing about the embezzled amount by the petitioner, the Regional Manager, State Bank of India released the entire amount of terminal benefits to the petitioner through the bank had not recovered the embezzled amount from the petitioner's terminal benefits which it was entitled to recover under the various provisions of law. Similar was the attitude on the part of the Regional Manager, Sh. Rakesh Kumar, who has filed affidavit in tune with the earlier affidavit filed by Smt. Preeti Sharma, Chief Manager. Para 5 of the affidavit filed by Regional Manager reads thus:

> "That the inquiry authority held Sh. Rajender Kumar Bathla guilty or various acts of omission and commission, misappropriation and embezzlement of funds, causing a financial loss to the tune of Rs. 67,49,345/- to the bank. Out of the aforesaid embezzled amount of Rs.67,49,345/- (Annexure-A), there were 180 cash deposit entries amounting to Rs. 24,77,975/-

> undertaken by Sh. Rajender Kumar Bhathla under his ID1579827 in the accounts of his relatives/friends as stated in Annexure-B which is enclosed herewith. These cash deposits have been made by diverting funds of bank customers since particulars of these transactions/cash deposits are un-explained and in many of these entries vouchers have not been prepared. An amount of Rs.8,78,713/-, which has been traced so far as the accounts from which the said amount has been embezzled, is yet to be returned along with interest (Annexure-C). Out of the said amount of Rs.8,78,713/-, bank had paid a sum of Rs.3,50,350/- to two of its customers whose accounts were embezzled by the delinquent officer."

The fact however, remains that the public money, that has been siphoned out, has not come back to the State Bank of India and on the contrary, the State Bank of India paid ₹3,50,350/- to the account holders and also paid the terminal benefits to the petitioner thus putting premium over the acts of the petitioner in committing misappropriation. The State Bank of India is trustee of the public money and it cannot be allowed to support the persons who misappropriated the public money.

To sum up, there is prima facie case against the petitioner who has not been cooperating as above. In that view of the matter, the relief of grant of anticipatory bail cannot be extended to the petitioner. The petition for anticipatory bail will have to be dismissed. In addition, the direction to State Bank of India also will have to be issued. Accordingly, I make the following order:

ORDER

(i) CRL. MISC. No.M-23409 OF 2016 is dismissed.

(ii) Interim order dated 14.07.2016 is vacated.

(iii) The State Bank of India, through its Chairman/Managing Director is requested to look into the entire matter and attitude of Chief Manager as well as the Regional Manager in protecting the petitioner and not only that also paying him entire terminal benefits despite embezzlement of over ₹67.49 lacs by him, and taking no steps to recovery the same.

22nd SEPTEMBER, 2017 **(A. B. CHAUDHARI)**
'*raj*' **JUDGE**

Whether speaking/reasoned: Yes No

Whether Reportable: Yes No