

Sr. No.203
**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM No. M-28173 of 2017 (O&M)

Date of Decision: 22.02.2018

Rajinder Kumar

... Petitioner

Versus

State of U.T., Chandigarh

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. J.S.Dhaliwal, Advocate with
Mr. S.K.Bawa, Advocate,
for the petitioner.

Mr. J.S.Toor, APP, U.T., Chandigarh.

TEJINDER SINGH DHINDSA, J.(ORAL)

CRM No.41578 of 2017

Application is allowed subject to all just exceptions.

Documents at Annexures P-5 to P-13 are taken on
record.

Application disposed of.

Main Case

This order shall dispose of the instant petition filed
under Section 438 Cr.P.C. seeking concession of anticipatory bail
to the petitioner in case FIR No.152 dated 21.09.2016, under
Section 409 IPC, registered at Police Station Sector-3, Chandigarh.

While issuing notice of motion, the following order was
passed by this Court on 03.08.2017:-

***“Learned counsel for the petitioner states
that the petitioner while working as a Cashier was
transferred on 13.05.2016 from the office of the
Museum & Art Gallery and was posted in the office of***

Deputy Commissioner. Since the petitioner was the only cashier, there was no body to take charge from him and it is thereafter, a Committee of three officers have taken charge. There was no embezzlement on the part of the petitioner.

Notice of motion for 06.10.2017.

Meanwhile, in the event of arrest of the petitioner, he shall be released on ad-interim bail to the satisfaction of the arresting officer. However, the petitioner shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C."

Mr. J.S.Toor, learned counsel representing the U.T., Chandigarh would apprise the Court that petitioner has since joined investigation.

U.T. Counsel would oppose the prayer made in the petition by submitting that there is an alleged misappropriation of Rs.12 lacs approximately and out of which Rs.8,50,000/- approximately was recovered from the chest from the concerned office of the Museum & Art Gallery and the balance amount is yet to be recovered. He further submits that the petitioner had furnished certain documents which would explain part of the outstanding amount and as of date recovery of Rs.2 lacs approximately is still outstanding.

Learned counsel representing the petitioner would join issue and would submit that the petitioner had discharged duties on the post of Cashier till 13.05.2016 whereupon he had been

transferred to the Office of the SDM (East).

During the course of arguments, it has also gone uncontroverted that charge of the post of Cashier was taken over from the petitioner by a Committee of three officers and that too after registration of the FIR and in the month of November, 2016.

It has been vehemently argued on behalf of the petitioner that it is not a case of misappropriation rather a case of rendition of accounts.

It may also be taken note of that departmental proceedings already stand initiated against the petitioner on the same very allegations. Petitioner is currently under suspension and as such there would be no occasion for the petitioner to tamper with the evidence as all the documents/necessary material is already in possession of the investigating agency.

In view of the facts and circumstances noticed hereinabove and coupled with the fact that the petitioner has already joined investigation, this Court is inclined to extend in favour of the petitioner the concession of pre arrest bail.

Petition is allowed.

Order dated 03.08.2017 passed by this Court, is made absolute.

Disposed of.

22.02.2018

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes
No