

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

CRM-M-30575-2018 (O&M)

Date of Decision:-8.10.2018

Gurpreet Kaur

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vipin Mahajan, Advocate for the petitioner.

Ms. Ruchika Sabherwal, Assistant Advocate General, Punjab.

GURVINDER SINGH GILL, J.(Oral)

The petitioner Gurpreet Kaur seeks grant of anticipatory bail in a case registered against her vide FIR No.24 dated 31.3.2018 under Section 409 of Indian Penal Code, 1860 at Police Station Sadar Batala, Police District Batala, District Gurdaspur, Punjab.

The allegations, as per FIR, are that an inquiry had been conducted as regards the grants received by Gram Panchayat, Talwandi Lal Singh and upon examination of the entire record produced by the Sarpanch and Panchayat Secretary, it had been found that the petitioner Smt. Gurpreet Kaur, Sarpanch and Sh. Sharanjit Singh, Panchayat Secretary, Block Batala, had embezzled an amount of ₹ 11,07,234/- by misappropriating the grants.

Notice of the present petition was issued to the State.

The learned State counsel has opposed the petition.

It has been informed by the learned State counsel that pursuant to the directions issued by this Court vide order dated 23.7.2018, the petitioner has joined investigation.

The learned counsel for the petitioner has submitted that the present case, at best, can be said to be a case of some irregularity of expenditure inasmuch as an amount in excess of the sanctioned amount had been spent for construction of street, drain and street of dera. It has further been submitted that infact as per provisions of Section 216 of Punjab Panchayati Raj, Act in case of any loss, waste or misapplication, every member of Panchayat is liable for such loss, waste or misapplication and that the Block Development and Panchayat Officer (BDPO), on an application of the Gram Panchayat or otherwise and after giving the member concerned an opportunity to explain can order recovery of such amount and that any such order passed by BDPO is appealable. The learned counsel has submitted that in the present case, the FIR has straight away been got lodged by the Deputy Commissioner without affording any opportunity to the petitioner to file an appeal.

I have heard the learned counsel for the petitioner and also the learned counsel for the State.

A perusal of a letter dated 4.9.2017 i.e. a report of Sub Divisional Officer, Panchayti Raj Public Department, Sub Division Batala, on the basis of which the FIR was lodged, shows that the Sarpanch, Gram Panchayat had received various amounts on various dates for carrying out development works, which included an amount of ₹ 3,69,583/- for construction of street, drain and construction of street of dera. The relevant extract from the said report reads as follows:-

“As per assessment register and the work done for the construction of street, drain and for construction of street of dera, which has been utilized fro Panchayat funds, 1726 bags of cement

which was purchased @ ₹ 350/- per bag, total comes to ₹ 6,04,100/-, 3671 feed sand, which has been purchased @ 2,800/- per hundred which comes to ₹ 102788/-, 6794 feet stone, which has been purchased @ ₹ 2,500/- per hundred which comes to ₹ 1,69,325/-, 1097 feed gatka which has been purchased @ ₹ 2,000/- per hundred which comes to ₹ 21,340/-. The labour has been mentioned to ₹ 2,09,081/- which is excess. As such, excess amount of ₹ 11,07,234/- has been spent which is recoverable. Therefore, Smt. Gurpreet Kaur Sarpanch and Sh. Sharanjit Singh, Panchayat Secretary are responsible.”

A perusal of the aforesaid report shows that amount in excess of the amount, which had been received, had been spent for construction of street, drain and street of dera. It is not specifically stated in the aforesaid report, as to whether the construction material as stated to have been purchased in excess had not been actually been purchased and bogus bills had been prepared for the same.

It would certainly be debatable as to whether it is a case of an excess expenditure or as to whether the petitioner had usurped the aforesaid excess amount.

In view of the aforesaid position, in my opinion, it is a fit case for grant of anticipatory bail to the petitioner. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 23.7.2018 are hereby made absolute subject to the condition that the petitioner shall appear before the Investigating Officer as and when directed.

The present petition stands accepted accordingly.

8.10.2018

pankaj

Whether speaking /reasoned

Whether Reportable

Yes / No

Yes / No

(Gurvinder Singh Gill)
Judge