

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-31420 of 2017(O&M)
Date of Decision: 22.01.2018

D.K. Malhotra & another

--Petitioners

Versus

State of Haryana

--Respondent

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

Present:- Mr. P.M. Anand, Advocate for the petitioners.

Mr. Deepak K. Grewal, D.A.G., Haryana.

Mr. Pankaj Bali, Advocate for the complainant.

TEJINDER SINGH DHINDSA.J (Oral)

Learned State counsel has filed in Court today a reply by way of affidavit of the Dy.S.P., City, District Karnal along with Annexures R-I and R-II and the same is taken on record.

This order shall dispose of the present petition filed under Section 438 Cr.P.C praying for the grant of anticipatory bail to the petitioners in case F.I.R. No.864 dated 15.10.2016 under sections 420, 467, 468, 471, 120-B I.P.C, registered at Police Station, Karnal Civil Lines, District Karnal.

FIR came to be registered on the complaint of certain members of the Karnal Public Sector Undertaking Group Housing Government Society Ltd., Karnal on the allegations that the petitioners herein, who were the ex-President and Secretary of the Society and had indulged in cheating, embezzlement and irregularities.

The entire FIR has been perused.

It appears that against the backdrop of the allegations, exercise of a special audit was initiated with regard to the functioning and activities undertaken by the Society since the year of formation i.e. 1990 and up to 31.3.2007. The FIR is indicative of the present petitioners having not furnished the entire record of the society in their possession even though they had remained Secretary and President of the Society up to 2007. In the FIR there is no mention about any specific finding recorded during the special audit as regards the sum of alleged embezzlement. To the contrary, in the FIR itself it has been recited that on 30.2.2008 and 24.3.2009, a house search of the present petitioners was conducted under the supervision and aid of the police authorities and the only document that was recovered was a site plan pertaining to construction.

This Court while issuing notice of motion, had passed the following order on 14.9.2017:-

“Heard.

Learned counsel for the petitioners submits that petitioners were Secretary and Manager of the Society from the period 1992 to 2007. Thereafter, they have given entire record to the office. FIR has been registered against the petitioners that they have not handed over any record. It is a matter to be seen during investigation as to which record is in custody of petitioners that has not been handed over by them. Petitioners are ready to join the investigation and co-operate with the investigating agency.

Notice of motion for 21.11.2017.

Petitioners are directed to surrender before the police and join investigation within two weeks. In the event of their arrest being required, they shall be released on interim bail till the next date, subject to their furnishing bonds to the satisfaction of Arresting Officer. However, they shall abide by

the terms and conditions as envisaged under Section 438(2) (i) to (iv) Cr.P.C. failing which they shall lose the benefit of interim bail allowed to them.”

Learned State counsel upon instructions from ASI Rajinder Kumar would apprise the Court that the petitioners have since joined investigation.

In the considered view of this Court, custodial interrogation of the petitioners, as such, would not be warranted. Accordingly, the present petition is allowed. The order dated 14.9.2017, passed by this Court, is made absolute.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

22.01.2018

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No