

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.38036 of 2017
Decided on: 08.05.2018

Sanjay Kumar Tanwar

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. J.S. Maanipur, Advocate for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

Mr. Pawan Girdhar, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR No.167 dated 03.02.2017 registered under Section 409 IPC at Police Station Civil Lines, Hisar, District Hisar.

Interim anticipatory bail has been granted to the petitioner by this Court vide order dated 10.10.2017, by passing the following order:-

“Prayer in this petition is for grant of anticipatory bail to the petitioner in case FIR No.167, dated 03.02.2017, under Section 409 IPC, registered at Police Station, Civil Lines, Hisar.

Learned counsel for the petitioner submits that the petitioner was working as a Contractor with DHBVN, Hissar in the year 2007 and the allegations in the FIR are that he has not deposited the EPF amount of contractual employees. He further submits that though the matter is pending before the Employees Provident Fund, Appellate Tribunal with regard to payment of EPF, the FIR was

registered without following the provision of Section 14-AC of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 wherein it is provided that no Court shall take cognizance of any offence except on a report in writing of the facts constituting such offence made with the previous sanction of the Central Provident Fund Commissioner or such other Officer as may be authorised by the Central Government by the notification in the official Gazette. It is further submitted that before registration of the FIR, no such sanction of the Competent Authority was taken. Leaned counsel for the petitioner further submits that he has been involved in series of similar FIRs and has relied upon the orders passed by this Court or the Additional Sessions Judge, vide which he has been granted anticipatory bail in the previous FIRs.

Notice of motion for 04.12.2017.

In the meantime, arrest of the petitioner shall remain stayed subject to the conditions mentioned below, as envisaged in Section 438(2) Cr.P.C :-

1. He shall make himself available for interrogation by a police officer as and when required;

2. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and

3. He shall not leave India without previous permission of the Court.”

Thereafter, on 20.02.2018, it was stated by counsel for the State that though the petitioner has joined the investigation, however, some recovery of contribution of EPF fund of the contractual employees, which the petitioner has taken from the DHBVNL is not

deposited by the petitioner and the counsel for the petitioner has stated that the security deposit made by the petitioner is still lying with the complainant and has further undertaken that he will not claim withdrawal of the said security till decision of the trial.

Today, counsel for the petitioner has relied upon the order dated 08.09.2017 passed by this Court in CRM-M No.13450 of 2017 wherein in similar circumstances, the interim bail granted to the petitioner was confirmed.

Counsel for the petitioner has also relied upon the terms and conditions of the Letter of Rate Contract for outsourcing of Manpower for Typing services, Data Entry Operators, GIS Information Updation, Software Maintenance Jobs/Works, wherein as per Clause (12), it was agreed between the parties that the contract was for a period of 01 year and the contractor will make the payment to the employees on submission of a bill in triplicate along with proof of depositing the EPF contribution to the EPF Trust of previous month and the contractor will submit his bill to the DDOs by first working day of the next month and the DDO will make the payment by 7th of each month. Counsel for the petitioner has, thus, submitted that the contribution was verified each month by the complainant during the subsistence of the contract.

Counsel for the State, on instructions from ASI Daya Ram, has not disputed the factual position and submits that the petitioner has joined the investigation and is no more required for any further investigation.

In view of the above, the petition is allowed and the interim bail granted to the petitioners vide order dated 10.10.2017 is

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made absolute subject to the conditions envisaged under Section 438(2)

Cr.P.C.

(ARVIND SINGH SANGWAN)

JUDGE

08.05.2018

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Whether speaking/reasonedYes/No

Whether reportable:Yes/No