

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

1) **CRM-M No. 10700 of 2019**
Date of Decision:-16.09.2019

Om Parkash

...Petitioner

Versus

State of Punjab

...Respondent

2) **CRM-M No. 55147 of 2018**

Shadi Lal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. Atul Goyal, Advocate
for the petitioner in CRM-M No. 10700 of 2019.

Mr. Prabhjeet Singh Sullar, Advocate
for the petitioner in CRM-M No. 55147 of 2018.

Mr. Ramdeep Partap Singh, DAG, Punjab.

MANOJ BAJAJ J.(Oral)

Petitioners Om Parkash and Shadi Lal have filed the aforementioned petitions under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No. 329 dated 03.11.2018, under Section 409 IPC, registered at Police Station Basti Jodhewal, District Police Commissionerate, Ludhiana.

The FIR was registered on the basis of letter dated 15.7.2018 from the Chief Officer, Police Station Basti Jodhewal, Ludhiana for registration of case against Ex-Chief Munshi Shadi Lal and Om Parkash for misappropriation of the case property. It was alleged that Shadi Lal, who held the post of Chief Munshi at Police Station Basti Jodhewal, Ludhiana w.e.f. 15.1.2016 to 14.9.2016, now posted on the same post at Model Town, Hoshiarpur and the said post was later on occupied by Om Parkash w.e.f. 07.12.2016 to 09.09.2017. Shadi Lal, upon transfer did not hand over the charge to Om Parkash and similarly upon transfer, Om Parkash did not hand over the complete charge pertaining to Malkhana of the Government to the next Munshi. They were called upon number of occasions for handing over the charge. According to the complainant, they had misappropriated the case property in their charge.

Mr. Goyal, learned counsel for the petitioner Om Parkash submits that upon transfer, Shadi Lal had handed over the charge to one Gurmit Singh and Om Parkash had taken the charge from Gurmit Singh on 07.12.2016. He has referred to the contents of the FIR, wherein the date of taking over the charge is mentioned as 07.12.2016, whereas the charge was

left by Shadi Lal on 14.9.2016. According to him the petitioner-Om Parkash was indicted in case FIR No.380 dated 09.9.2017, under Sections 308 and 166-A IPC, Police Station Jodhewal, Ludhiana, and therefore was taken into custody and was released on bail vide order dated 22.9.2017. According to him the petitioner was later dismissed from service as well. It is pointed out that the allegations are regarding non-maintaining the record and custodial interrogation of the petitioners may not be necessary.

Mr. Sullar, learned counsel appearing on behalf of petitioner Shadi Lal contends that the petitioner after completion of nine months tenure as Chief Munshi had handed over the charge properly. He has invited the attention of the Court to Annexure P-2, whereby the charge was taken over from petitioner by the next incumbent. According to him the case properties were found intact by the next incumbent. It is further contended that he has been falsely implicated because of departmental enmity after a period of more than two years from the alleged occurrence.

Both learned counsel have contended that the petitioners are ready to join the investigation.

In response to the order dated 03.5.2019, affidavit of Mukhtiar Rai, PPS, Assistant Commissioner of Police (North), Ludhiana was filed in CRM-M-10700-2019, wherein it was pointed out that the petitioner Om Parkash worked as Mohrar Head Constable (Head Munshi) at Police Station Jodhewal, Ludhiana w.e.f. 07.12.2016 to 09.09.2017 and during the tenure few articles were found missing. The list of articles mostly pertains to the different cash amounts recovered in the gambling cases or the offences

pertaining to theft or Essential Commodities Act. It was also mentioned that certain unaccounted articles of the case properties are lying in the Malkhana but no particulars of the recovered articles were mentioned in the FIRs. Besides in some of the cases there was no recovery, however, wrong entries were made in Register No.19 of the police. Similar is the stand in respect of co-accused Shadi Lal.

After hearing learned counsel for the parties and perusing the stand, this Court is of the considered opinion that the custodial interrogation of the petitioners may not be required, particularly when as per the affidavit certain articles have been shown to be lying in the Malkhana without any particulars of FIRs. It is also mentioned that some of the entries have been made wrongly in the register.

Considering the above background, it is ordered that in the event of arrest of the petitioners by the Arresting Officer, they shall be released on bail subject to their furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. They shall join investigation as and when called for by the Investigating Officer and would abide by the conditions enshrined under Section 438(2) Cr.P.C.

Both the petitions are allowed.

September 16, 2019
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No