

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.203

CRM-M-16247-2020 (O&M)

Date of decision : 29.10.2020

Mukesh Chand

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Ms. Tanu Bedi, Advocate, for the applicant-petitioner.

Mr. J.P. Ratra, DAG, Punjab.

SUDHIR MITTAL, J. (Oral)

CRM-24939-2020

This is an application for placing on record documents
Annexures P-5 to P-8.

Notice of motion.

Mr. J.P. Ratra, DAG, Punjab, accepts notice on behalf of the
respondent-State and waives service and has no objection, in case, the
application is allowed.

Accordingly, the application is allowed.

Documents Annexures P-5 to P-8 are taken on record.

CRM-M-16247-2020

The petitioner seeks regular bail in case FIR No.16 dated
28.3.2018, registered at Police Station Shahpurkandi, District Pathankot,
under Sections 409, 420, 465, 466, 467, 468 and 471 IPC and Sections 13
(1) (c), 13 (1) (d) and 13 (2) Prevention of Corruption Act, 1988.

According to the allegations made in the FIR, the petitioner
embezzled money in excess of Rs. 1 crore by forging the leave encashment
and promotion arrears of other employees. The money so obtained was

deposited in bank accounts being operated by the petitioner and was ultimately siphoned off.

Learned counsel for the petitioner submits that the petitioner has been in custody since 10.1.2020. The trial is nowhere near completion as even charges have not been framed as yet. An incomplete challan has been presented to deny the default bail to the petitioner and the said challan itself suggests that further investigation is being done on account of which a supplementary challan will be presented. The FIR is dated 28.3.2018 and the police had not been able to conclude the investigation even after 2 ½ years. There is no other criminal case pending against the petitioner and thus, he deserves to be granted regular bail.

Custody certificate dated 28.10.2020 has been produced in Court today and the same is taken on record. According to this certificate, the petitioner has undergone actual custody of 09 months and 13 days and there is no other criminal case pending against him.

Learned State counsel concedes that a supplementary challan is to be presented. He, however, suggests that the delay in the investigation is on account of the office of the Accountant General, Punjab having failed to provide the original bills. Thus, the delay is not attributable to the investigating agency. A sum of Rs.54.94 lacs has been recovered from the petitioner. The accounts being operated to siphon the claims of other employees were linked to the mobile number of the petitioner. Thus, there is sufficient evidence available on record to establish the guilt of the petitioner. Since, a huge amount of money has been embezzled, the petitioner does not deserves to be granted regular bail.

It is, thus, evident that an incomplete challan has been presented. Charges have also not been framed. Thus, the trial cannot be concluded at an early date. Allegedly, the office of the Accountant General, Punjab, is at fault for delay in handing over the original bills/documents, but ultimately, the blame is to be taken by the investigating agency. The FIR was registered on 28.3.2018 and if, after 2 ½ years, the investigation is not complete, the effort of the learned State counsel to deflect the blame on the office of Accountant General, Punjab, can only be appreciated, but cannot be accepted. The petitioner has been in custody for 09 months and 13 days and no useful purpose would be served by keeping him behind the bars indefinitely. If the State is so concerned about the seriousness of the offence of the petitioner, probably, granting of bail to the petitioner would be an incentive to conclude the investigation and trial early.

Accordingly, the petition is allowed and petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

(SUDHIR MITTAL)
JUDGE

29.10.2020

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No