

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

101

CRM-M-98-2020

Date of decision: 26.08.2021

Jagjit Kaur

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. P.K.S. Phoolka, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab
for the respondent-State.

Mr. Sumit Jain, Addl. A.G., Haryana
for State of Haryana.

Mr. Prateek Gupta, Addl. Public Prosecutor
for U.T., Chandigarh.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

1. The petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C") for grant of anticipatory bail in case FIR No.204 dated 12.12.2019 registered under Section 409 of the Indian Penal Code, 1860 at Police Station Sadar Malout, District Sri Muktsar Sahib.

2. While issuing notice of motion on 22.01.2020, this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and the relevant part of the said order reads as under:-

"The abovesaid FIR was registered on complaint submitted by Superintendent Post Office, Faridkot

Division, District Faridkot inter alia alleging that accused-Jagjit Kaur (the petitioner in the present case) had received amount of Rs.71,800/- from Ramveer Singh but instead of depositing the same in his Post Office Account criminally misappropriated the same by dishonestly retaining the amount with her.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated at the instance of senior officials of the Postal Department in order to settle personal score/grudge in connivance with Ramveer Singh. The petitioner deposited the amount on 17.12.2015. The petitioner is ready to join the investigation and her custodial interrogation is not necessary for effecting any recovery.

Notice of motion.

On the asking of the Court, Mr. Sandeep Singh Deol, D.A.G. Punjab accepts notice on behalf of the respondent-State. Copy of the paper book has been supplied to the learned State Counsel.

ASI Jarnail Singh, Investigating Officer of the case has also appeared in the Court.

Learned State Counsel seeks time to file reply and address arguments.

Adjourned to 27.03.2020.

In the meanwhile, the petitioner is directed to join the investigation as and when called upon to do so. In the event of her arrest, the petitioner shall be released on interim bail by the arresting officer/investigating officer on furnishing of bail bonds by her to the satisfaction of the arresting officer/investigating officer. The petitioner shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which she shall not be entitled to the protection of interim bail allowed to her."

3. The petition has been opposed by the respondent-State.

However, no reply has been filed on behalf of the respondent-State.

4. I have heard learned Counsel for the petitioner and learned State Counsel and have gone through the record.

5. Learned Counsel for the petitioner has, while reiterating submissions made earlier, submitted that in compliance with order dated 22.01.2020, the petitioner has joined the investigation and she may be granted anticipatory bail as her custodial interrogation is not

required in the case.

6. On the other hand, learned State Counsel has vehemently opposed the petition and submitted that in view of nature of accusation and gravity of offences, the petitioner does not deserve grant of anticipatory bail. Therefore, the petition may be dismissed.

7. However, learned State Counsel has, on instructions from ASI Gurmit Singh, acknowledged that in compliance with order dated 22.01.2020 passed by this Court, the petitioner has joined the investigation and that her custodial interrogation is not required in the case.

8. In view of the facts and circumstances of the case, nature of accusation against the petitioner, the fact that custodial interrogation of the petitioner is not required in the case and there is no material to justify the apprehension of the petitioner fleeing from justice or tampering with evidence or criminally intimidating the prosecution witnesses, but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves the grant of anticipatory bail.

9. In view of the above, the petition is allowed and order dated 22.01.2020 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation again if and as and when called upon to do so and shall abide by the conditions enumerated in Section 438 (2) of the Cr.P.C., failing which the protection of anticipatory bail order shall not be available to her.

10. Before parting with this case it may be observed that in the course of hearing of the present petition it came to notice of this Court

that in the present case written complaint for registration of FIR against petitioner-Jagjit Kaur was initially made to the S.H.O., Police Station Malaut, District Sri Muktsar Sahib on 18.07.2017 and on his failure to register FIR, Superintendent, Post Office, Faridkot Division, District Faridkot sent letter dated 06.03.2019 to the Senior Superintendent of Police, Sri Muktsar Sahib who marked the inquiry to Superintendent of Police, PBI, Sri Muktsar Sahib. Superintendent of Police, PBI, Sri Muktsar Sahib conducted inquiry and submitted report dated 13.04.2019 whereupon matter was referred to Deputy D.A., Sri Muktsar Sahib for legal opinion. Deputy D.A., Sri Muktsar Sahib submitted his opinion on 17.08.2019 on which Senior Superintendent of Police, Sri Muktsar Sahib asked Superintendent of Police, PBI, Sri Muktsar Sahib to discuss. Due to transfer of the incumbent of the post of Superintendent of Police, PBI, Senior Superintendent of Police, Sri Muktsar Sahib asked Superintendent of Police (Headquarters) Sri Muktsar Sahib to discuss. Superintendent of Police (Headquarters) Sri Muktsar Sahib submitted report dated 27.11.2019 on which the complaint was sent to S.H.O., Police Station Malout on the basis of which FIR No.204 dated 12.12.2019 was registered after more than two years and four months from the date of submission of first complaint.

11. In view of observations in ***Lalia Kumari Vs. Govt. of U.P. And others : 2013 (4) RCR (Criminal) 971***, vide order dated 22.01.2020, the Director General of Police, Punjab, Haryana and U.T., Chandigarh respectively were directed to submit their affidavits giving information regarding the following aspects:-

- (a) Whether any instructions have been issued regarding concluding of preliminary inquiries for

ascertaining whether complaint discloses cognizable offence or not for registration of FIR within time as directed by Hon'ble Supreme Court ?

- (b) In how many cases such preliminary inquiries were made during the year 2019 ?
- (c) In how many cases preliminary inquiries exceeded the period of 7 days ?

12. In compliance with order dated 22.01.2020, affidavit dated 05.08.2021 of Mr. Dinkar Gupta, IPS, Director General of Police, Punjab, affidavit dated 11.08.2021 of Mr. Manoj Yadava, Director General of Police, Haryana and affidavit dated 16.08.2021 of Mr. Sanjay Beniwal, IPS, Director General of Police, U.T., Chandigarh, were filed.

13. In his affidavit Mr. Dinkar Gupta, IPS, Director General of Police, Punjab has mentioned that in view of judgment of Hon'ble Supreme Court in *Lalia Kumari's case (supra)* instructions dated 11.02.2015 were issued and reiterated on 17.02.2020 and 05.04.2021 and that 3654 preliminary inquiries were pending beyond six weeks.

14. In his affidavit Mr. Manoj Yadava, Director General of Police, Haryana has mentioned that instructions dated 22.11.2013 were issued and that 65 preliminary inquiries were pending for more than seven days in the year 2019.

15. In his affidavit Mr. Sanjay Beniwal, IPS, Director General of Police, U.T., Chandigarh has mentioned that advisories dated 05.10.2014 and 12.10.2015 were issued by the Ministry of Home Affairs, Government of India which were circulated to the concerned Police Officers mentioned in his affidavit and that 346 preliminary inquiries were pending for more than seven days in the year 2019.

16. Vide order dated 23.08.2021, the Director General of

Police, Haryana and the Director General of Police, U.T., Chandigarh were directed to file additional affidavits giving requisite details regarding preliminary inquiries pending for more than six weeks in the year 2019 but the same have not been filed.

17. The Director Generals of Police, Punjab, Haryana and U.T., Chandigarh respectively are directed to issue instructions that in cases in which preliminary inquiries are conducted the same be concluded within the prescribed period of six weeks and in case any unreasonable delay occurs in conclusion of such preliminary inquiries appropriate departmental action be taken against the defaulting police officer/official.

18. A copy of this order be supplied to learned State Counsel for States of Punjab and Haryana and U.T., Chandigarh and be also sent to the Director Generals of Police, Punjab, Haryana and U.T., Chandigarh for ensuring requisite compliance with the same.

26.08.2021

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**(ARUN KUMAR TYAGI)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No