

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

**CRM-M-5547-2021
Date of decision: 22.03.2021**

Aashish Tiwari

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Parunjeet Singh, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Namit Gautam, Advocate
for the complainant.

(Through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No. 341 dated 07.12.2020, registered under Sections 408 and 34 of the IPC at Police Station Salem Tabri, Ludhiana.

The operative part of the order dated 08.02.2021, vide which the petitioner has been granted interim bail, is reproduced below:

“Learned counsel for the petitioner relies upon order dated 07.01.2021 passed in CRM-M-483-2021, vide which accused No. 1 Manveer has been granted concession of interim anticipatory bail by this Court. The operative part of the order reads as under:

Learned counsel for the petitioner submits that as per the allegations in the FIR, registered at the instance of complainant Mohan Lal Bhattacharya, he is authorized by the company to register the FIR. It is further stated in the FIR that petitioner/accused

No. 1 was working in the company since 2011 as a Lead Data Entry Operator, whereas Satya Parkash Sharma/accused No.2 was working as Cashier with the complainant since 2014 and Ashish Tiwari/accused No.3 was working with the complainant in Cash Account Department.

Learned counsel for the petitioner further submits that as per the allegations in the FIR, from April, 2019 to September, 2020, i.e. for a period of about 1 ½ years, the accused persons did not deposit the part of amount in the account of the company, which was received by them, however, when the GST was to be filed, they found that there is a shortage of amount in the account.

Learned counsel for the petitioner further submits that the petitioner was only a Data Entry Operator and in the FIR, it is nowhere mentioned that he had any authority or he was authorized to receive any amount, which was the primary duty of aforesaid accused Nos. 2 and 3.

Learned counsel for the petitioner further argues that in fact the complainant himself was not vigilant about checking his accounts, as it is own case of the complainant that the amount was received on day to day basis, therefore, if the complainant himself was sleeping over the matter for 1 ½ years and was not getting the account checked from a Chartered Accountant or Senior Auditor, when the GST was to be paid and it was found to be short, the entire allegations cannot be levelled against the accused persons.

Notice of motion.

Mr. Dhruv Dayal, Sr. DAG, Punjab and Mr. Namit Gautam, who are also appearing through

video conferencing, accept notice on behalf of the respondent-State and complainant, respectively. They could not dispute that the shortage of amount, as alleged in the FIR, belongs to the period of April, 2019 to September, 2020.

List again on 22.03.2021.

Learned counsel further submits that as per allegations in para 5 of the FIR, it is the case of the complainant that as a matter of standard business practice, when a driver-cum-salesman comes back in the evening after selling the stock in the retail market, he gets the sale invoicing with accused No. 1- Manveer and deposits the cash with accused No. 2-Satya Prakash Sharma.

Learned counsel further submits that there is no direct allegation against accused No. 3 i.e. the petitioner that at any point of time, the cash was handed over to him and once it is the own case of the complainant that cash was accounted for everyday, the FIR has been registered after a delay of about one year.

Notice of motion.

On the asking of Court, Mr. Saurav Khurana, DAG, Punjab and Mr. Namit Gautam, Advocate, who are also appearing through video conferencing, accept notice on behalf of the respondent-State and complainant, respectively. They seek some time to address arguments.

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To be listed with ***CRM-M-483-2021***.

Learned counsel for the petitioner submits that the petitioner, in pursuance to the order dated 08.02.2021, has already appeared before the SHO/Investigating Officer and has joined the investigation.

Learned counsel for the State, assisted by learned counsel for the complainant, on instructions from the SI Manpreet Singh, 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 petitioner, vide order dated 08.02.2021, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

22.03.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No