

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

CRM-M No.16089 of 2021(O&M)
Date of Decision:- 09.06.2021

Nalin Tayal and anr.

... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Manuj Nagrath, Advocate for petitioners.

Mr. H.S. Sitta, AAG Punjab for respondent.

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of COVID-19 Pandemic.

2. Both the petitioners have filed this petition under Section 439 Cr.P.C. for grant of regular bail in case having FIR No.274 dated 17.10.2020 under Sections 420, 409 and 34 IPC (Section 120-B of IPC added later on) registered at Police Station City Rupnagar.

3. On notice, Mr. H.S. Sitta, AAG Punjab, appeared on behalf of respondent.

4. I have heard the counsel for the petitioners and the State counsel.

5. The counsel for the petitioners submitted that petitioner No.1 is the President while petitioner No.2 is the Secretary of the GATS Urban Cooperative Thrift and Credit Society Ltd. Ludhiana (in short 'Society'). He further submitted that the dispute is of civil nature and as per Section 55(2) of the Punjab Cooperative

Societies Act, 1961 (in short 'Act of 1961') there is a specific provision for arbitration and accordingly, the management has approached the Assistant Registrar Cooperative Societies, Ludhiana (West), for appointment of the arbitrator. It is further contended that the said official has already passed order dated 21.10.2020 under Section 65 of the Act of 1961 whereby, certain urban and rural properties belonging to the petitioners have been ordered to be attached before award. The counsel for the petitioners supplied the copy of the said order which is taken on record. Learned counsel further submitted that petitioners lodged complaint dated 29.02.2020 to the Commissioner of Police, Ludhiana against the present complainant-Bikramjit Singh as well as other depositors. He further contended that the present FIR is a counter-blast to the said complaint filed against the complainant who committed gross irregularities and illegalities which are subject to the audit. The counsel for the petitioners further submitted that to show their bona fide, the petitioners are ready to deposit a sum of Rs.5 lacs in the account of the society. He further submitted that even otherwise the case is triable by the Court of Judicial Magistrate 1st Class and the petitioners are already in custody for the last more than six months and the trial is not proceeding further due to prevalent Covid-19 situation. While making, prayer for grant of bail to the petitioners, the counsel also referred to order dated 08.03.2021 whereby, regular bail was granted by this Court to their co-accused Poonam Tayal.

6. On the other hand, the State counsel contended that the petitioners are real brothers and the society was run by them and other members of their family including Poonam Tayal. The State counsel further submitted that the petitioners took money from different persons and subsequently, they failed to return the same, even after the maturity of FDRs and recurring deposits, in which, they

deposited the entire amount of the creditors. He further contended that the petitioners and other accused embezzled the said amount. He further contended that as per the report under Section 173 Cr.P.C. submitted by the police, the petitioners being the president and secretary of the society along with other office bearers of society embezzled Rs.48,00,000/-(approximately), belonging to 59 customers. He further submitted that the bail application deserves to be dismissed. However, at the same time he admitted that after completion of the investigation challan has been presented against the accused persons but the case has not proceeded further due to covid-19 situation. The state counsel also admitted that co-accused Poonam Tayal was granted regular bail by this Court subject to deposit of Rs.15,00,000/- (Fifteen lakhs) in the shape of FDR in the name of society in some Nationalized bank. The State counsel also admitted that both the petitioners are in custody for the last more than six months.

7. I have considered the submissions made by counsel for the petitioners and State Counsel.

8. As per the counsel for the petitioners, they have already moved an application before the Assistant Registrar Cooperative Societies, Ludhiana (West) for appointment of arbitrator for redressal of grievances of the aggrieved parties, which is mandatory as per Section 55(2) of the Act of 1961. From the perusal of the copy of order dated 21.10.2020 it appears that Assistant Registrar Cooperative Society, Ludhiana (West) passed order under the Act of 1961 regarding attachment before award of the certain properties of the petitioners which include urban as well as rural properties situated in district Ludhiana.

9. Admittedly, both the petitioners are in custody for the last six months and eighteen days as has been reflected in their custody certificates.

On completion of investigation challan has been presented against the accused

persons. Undisputedly, the trial has not proceeded further due to restricted working in the courts at the district level on account of covid-19 pandemic. Co-accused Poonam Tayal has already been released on regular bail vide order dated 08.03.2021 subject to deposit of certain amount by her in the name of the society in nationalized bank.

10. In the light of the above, this Court is of the view that no useful purpose would be served by detaining the petitioners behind the bars, for any longer period. Thus, without commenting anything on the merits of the case, the present petition is allowed and both the petitioners are ordered to be released on bail on their furnishing bail and surety bonds to the satisfaction of Trial Court/Duty Magistrate, Rupnagar, subject to further condition that the petitioners shall deposit in total a sum of Rs.8,00,000/- (Eight lakhs) in the shape of FDR in the name of the society in some nationalized bank. The said amount shall not be released until the final adjudication of the proceedings. The petitioners cannot leave the country without the prior permission of the court concerned and they should not pressurize the prosecution witnesses in any manner.

11. It is made clear that the deposit of the aforesaid amount shall not be construed as an admission of the guilt on the part of the petitioners.

(KARAMJIT SINGH)
JUDGE

09.06.2021
PC

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No