

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

CRM-M-12271 of 2020

DATE OF DECISION :- February 17, 2021

Shri Hari Kishan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. S.K. Garg Narwana, Sr. Advocate
with Mr. Jagjit Singh, Advocate for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

The case has been taken up through Video Conferencing.

This petition for pre-arrest bail has been filed by petitioner Hari Kishan son of Pala Ram, aged about 52 years, resident of Ward No. 2, Near Canal Colony, Cheeka, District Kaithal, an accused in F.I.R No. 43 dated 10.3.2020 under Sections 406, 409 and 420 IPC registered with Police station Cheeka, District Kaithal.

Briefly stated the facts of the case as per prosecution story are that petitioner Hari Kishan, lineman was posted as Head Cashier in the office of Operation, Sub Division, Cheeka. On 3.3.2020, when the office record was checked, it was found that a sum of Rs.43,76,538/- which was revenue amount of the department, was neither deposited in the bank nor kept in the official CHEST. For that reason it was taken that petitioner had not kept correct accounts of the official money and had rather misused the

same causing financial loss to the department. Subsequently, the said amount was deposited by the petitioner in the bank. Sub Divisional officer of UHBVN Cheeka had reported the matter to the police, on the basis of which formal F.I.R was registered. Apprehending his arrest in this case, the petitioner had approached the Court of Sessions at Kaithal by moving an application for grant of pre-arrest bail. His such application was, however, declined by Additional Sessions Judge, Kaithal vide order dated 24.3.2020, as such he has knocked at the door of this Court craving for grant of similar relief, which request is being opposed by the State counsel.

I have learned Senior counsel for the petitioner and learned State counsel besides going through the record.

Learned counsel for the petitioner has contended that the petitioner was actually working as a lineman and was given charge of Head Cashier. He has not misappropriated any official money rather he has been suffering from Cancer since 2017 as per discharge summary (Annexure P-3) and for that reason there might have been some delay in depositing the amount with the bank. The amount has since been deposited and the only dispute is with regard to payment of interest. The petitioner is ready to pay the said amount of interest to the tune of Rs.2,92,864.50/- but on account of financial constraints due to his serious ailment and insufficient salary amount, he is unable to pay the amount in one go rather has requested that the department may recover that amount in easy installments of Rs.5,000/- per month by deducting that amount from his salary. Learned counsel for the petitioner has further contended that at best, it was a procedural lapse on the part of the petitioner. The petitioner has since joined the investigation and has been granted interim bail, therefore, this petition be allowed.

However, learned State counsel has contended that though the petitioner has joined the investigation but he has not got the interest amount recovered, therefore, pre-arrest bail may not be granted to him.

After hearing learned Senior counsel for the petitioner and learned State counsel and besides going through the record, I find that a serious point has arisen in this case as to how petitioner working as a lineman, had been given charge of Head Cashier. The officer who had given him such charge needs to explain as to how a technical hand had been given charge of a post dealing with financial matters. Even otherwise the amount involved i.e. Rs.43,76,538/- has since been deposited in the bank and the loss occurred to the department is on account of payment of interest. The case is based on documents which are there with the complainant. It is not case of the prosecution that any part of government money is still lying with the petitioner accused, which is required to be recovered rather the case of prosecution is that petitioner is liable to compensate the department on account of loss of interest due to delayed deposit of the government money in the bank. Therefore, it cannot be said that custodial interrogation of the petitioner is necessary to effect that recovery. Even otherwise the petitioner is stated to be suffering from a serious disease of Cancer. In my considered view it would be proper and appropriate to accept the present petition. Therefore, the petition is allowed.

The interim bail granted to the petitioner on 13.5.2020 is made absolute, subject to the following conditions :-

- (i) he shall join the investigation as and when so directed.
- (ii) he shall appear in the Court on each and every date of hearing.
- (iii) he shall not give any threat or intimidation to the

prosecution witnesses.

- (iv) he shall not leave India without prior permission of the Court.
- (v) he shall surrender his Passport before the Investigating Officer and if he is not having Passport then shall file the affidavit in that regard.

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

The petition stands allowed accordingly.

(H.S. MADAAN)
JUDGE

February 17, 2021
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No