

101-1

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-28304-2021 (O&M)
Date of decision: 02.11.2021

Jagdish Kumar

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab..

Mr. J.S. Gill, Advocate for the complainant.

AVNEESH JHINGAN, J (Oral):

Due to COVID-19 situation, the Court is convened through
video conference.

This petition is filed for grant of anticipatory bail in FIR
No. 37, dated 13th April, 2021 under Sections 409, 201, 120-B IPC and
Section 13(1)(a) of the Prevention of Corruption Act, 1988, registered
at Police Station Arniwala, District Fazilka.

On 12th October, 2021, following order was passed:

*“Due to COVID-19 situation, the Court is convened
through video conference.*

*This petition under Section 438 Cr.P.C. is filed for
seeking anticipatory bail in FIR No. 0037 dated
13.04.2021, under Sections 409, 201, 120-B of IPC 1860
and Section 13 (1) (a) of PC Act, registered at Police*

Station Arniwala, District Fazilka.

The allegations in the FIR are made by the complainant an Ex-Panch against the petitioner, who was Sarpanch of village Sahiwala during 2013-2018 and even now is the Sarpanch. There are allegations that for withdrawal of amounts, signatures of other Panchayat members were forged in the register. The amounts have been embezzled as the whole amount received on behalf of the Gram Panchayat were not deposited.

Learned counsel for the petitioner submits that the complainant is in a habit of making false complaints. Earlier twice in inquiry held regarding the forged signatures in the Register, the allegations were found false. The reliance is placed upon Annexure P-3 and P-4 annexed with the petition. He further submits that the petitioner is ready to join the investigation and hand over whatever record is available with him. Submission is that as per the pleadings in the reply the embezzled amount come to Rs.7,21,500/-, the petitioner to show his bona fide is ready to deposit Rs. 7,22,000/- with the trial Court subject to outcome of the trial. Contention is that as per FSL report there is no conclusive evidence as on date of forgery of signatures.

Learned State counsel opposes the grant of anticipatory bail. She submits that DDR was reported by the petitioner stating the loss of the record for relevant period and that the allegations against petitioner are serious in nature.

Mr. J.S. Gill, Advocate appears on behalf of the complainant though not pleaded as party. He vehemently opposes the prayer for anticipatory bail. He submits that the loss of record was intentional and to ensure that there is no headway in the investigation, the

DDR was lodged at a later stage. He further submits that there are allegations of economic offence being committed by the petitioner.

The allegations of embezzlement are based upon the documentary evidence. The issue that whether the DDR was a cover up or the record for a relevant period was actually lost would be subject matter of investigation. Considering the facts and circumstances in totality, at this stage, it would not be a case to deprive the petitioner of personal liberty as the initial stage itself. The petitioner is granted interim bail subject to deposit Rs.7,22,000/- before the trial Court and joining investigation within 15 days. In the event of arrest, he shall be released on interim bail subject to his furnishing adequate bail bonds to the satisfaction of the Investigating Officer. He is directed to join the investigation as and when called for. He shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

List on 02.11.2021.

The amount deposited shall be subject to the outcome of the trial and would be kept in a FDR in a Nationalized Bank.

Let the State file the status report on the next date with regard to the progress in the investigation.”

Reply dated 9th August, 2021 filed by the State is taken on record.

Though one of the issue raised is that record with the petitioner has not been produced as DDR was got reported with regard to missing record.

Learned State counsel, on instructions, submits that

petitioner be directed to join the investigation as and when called for.

As no custodial interrogation is needed, the interim bail granted on 12th October, 2021 is made absolute. The petitioner will join the investigation as and when called for.

Disposed of accordingly.

2nd November, 2021

pankaj baweja

[AVNEESH JHINGAN]

JUDGE

1. Whether speaking/ reasoned

:

Yes /No
2. Whether reportable

:

Yes /No