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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.28684 of 2021(O&M)

Date of Decision:02.09.2021

Sagar

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Prateek Pandit, Advocate
for the petitioners.

Mr. Bhupender Beniwal, AAG, Punjab.

Mr. P.S. Ahluwalia, Advocate
for the complainant.

RAJ MOHAN SINGH, J. (Oral)

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

Petitioner seeks grant of anticipatory bail under Section 438 Cr.P.C in case bearing FIR No.137 dated 05.05.2021 registered under Section 381 IPC at Police Station Tripri Patiala.

FIR was registered at the instance of Sanjeev Goyal owner of the Shaurya Hotel, Patiala. As per allegations, the petitioner was working as Accountant in the said hotel. Petitioner was provided with a room, so as to keep the cash amount in the said room. He was keeping the entire cash, bill

books etc. in the said room and was rendering the accounts to the management weekly. Petitioner had settled the account with the management upto 10.03.2021, but on 26.03.2021, the petitioner left the hotel after discharging his duties and thereafter, he did not come back. He was contacted for two days telephonically, but he did not come due to his ailment. Petitioner was asked to give accounts upto 25.03.2021, but he kept on putting off the matter. On being checked, it was found that there was no cash in the dash board in the room. An amount of Rs.7 lacs was found missing. The allegations are of usurping that amount.

Learned counsel for the petitioner submits that the petitioner had attended his duties even after 26.03.2021 and he was paid the salary for the entire month of March. He also relied upon some photographs Annexures P2 and P3, which were picturized in the celebrations in the hotel premises held on 29.03.2021 and 01.04.2021.

In compliance of order dated 17.08.2021, the State has filed response, Para Nos.8 and 9 of the reply read as under:-

“8. That the supplementary statement of complainant Sanjeev Goyal was also recorded by the Investigating Officer of dated 20.08.2021 wherein the complainant stated that the accused/petitioner left the hotel after attending his duty on 26.03.2021 but did not turn up for

duties and when he contacted him over the phone, he stated that he is ill and is unable to attend the duty. He further stated that now he came to know from the Asish Jaiswal Purchase Manager of the Hotel that accused Sagar attended Holi celebration with Hotel Staff on 29.03.2021 and also attended birthday party of Asish Jaiswal on 01.04.2021. The complainant further stated that since he did not attend both the functions, hence he was unaware about the present of accused Sagar, in the functions. However, the accused never attended his duties after 25.03.2021 in the hotel. (True translated copy of supplementary statements is annexed herewith as Annexure R-1/T).

9. That from the investigation conducted so far, it came to light that the accused/petitioner did not attend his duty in Saurya Hotel after 26.03.2021. However, the accused/petitioner attended Holy festival with Hotel Staff on 26.03.2021 and also attended the birthday party of Asish Jaiswal Purchase Manager of the Hotel on 01.04.0221 and photographs were taken in the functions. The accused/petitioner on phone stated to the complainant that due to illness he is unable to attend the duties and did not settle the accounts with the complainant on one pretext or the other. The complainant did not attend both the parties i.e. 29.03.0221 as well as of 01.04.2021, hence he was not aware about the presence of accused/petitioner in both the functions.”

Learned counsel for the complainant has vehemently submitted that interim bail was granted by the Court of Sessions

on some misconception of fact, but subsequently, the same was withdrawn on coming to know the factual position. The photographs relied upon by the petitioner, showing his participation in the celebrations of Holy festival at the hotel premises on 29.03.2021, was not in the knowledge of the complainant as he was not aware of the same being at home.

As per record of the management, the petitioner never attended his duties after 26.03.2021. It has been found in the investigation conducted by the police that the petitioner never attended his duties after 26.03.2021. There had been no entry in the account books after 26.03.2021. Attending a private function after 26.03.2021, would not advance the case of the petitioner in any manner. Petitioner never handled the account books after 26.03.2021. The presence of the petitioner in the attendance register was only upto 26.03.2021. An amount of Rs.7,34,652/- was due to be handed over by the petitioner as per balance struck on 26.03.2021. The said amount was to be deposited by the petitioner in the accounts of the firm. Petitioner did not come present after 26.03.2021 and has usurped the amount in question.

Learned counsel for the petitioner submits that there is a delay of 40 days in lodging the FIR. He further submits that the complainant was never interested in prosecuting the

petitioner without any basis. They waited sufficiently to channelize the petitioner to come across the table to make good the payment.

Keeping in view the ailment with which the petitioner was suffering, he was paid the total salary for the month of March, but still the petitioner did not come forward and the delay has occasioned in lodging the FIR, which is duly explained.

In view of aforesaid position of the case, at this stage, without meaning anything on merits of the case, I find no ground to grant any indulgence in favour of the petitioner under Section 438 Cr.P.C.

Dismissed.

02.09.2021

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No