

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

Sr. No.203

CRM-M-38428-2021

Date of Decision: 02.12.2021

MAHESH KUMAR

... Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gopal Sharma, Advocate,
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

Mr. Sandeep Sharma, Advocate
for the complainant.

Harsimran Singh Sethi, J.(Oral)

The petitioner is seeking anticipatory bail in FIR No.258 dated 21.11.2020 under Section 406 and 409 of IPC registered at Police Station Ateli, District Mahendergarh.

Learned counsel for the petitioner contends that the petitioner has joined investigation in terms of order passed by this Court dated 16.09.2021. Order dated 16.09.2021 is as under:-

“ The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail to the petitioner in respect of FIR No.258 dated 21.11.2020 registered under Sections 406 and 409 of the IPC at Police Station Ateli, District Mahendergarh.

Learned counsel for the petitioner submits that the petitioner was an office bearer of the society and was highlighting the irregularities of the other managers while managing the society, due to which, he has been targeted and now a complaint has been made by one of the office bearer of the society that as a room has been locked by the petitioner alongwith certain items, which includes computer, battery, cooler and fridge and the keys of the

said room are not being given by the petitioner, same amounts to misappropriation and comes within the purview of Sections 406 and 409 of the IPC and the present FIR has been registered against the petitioner.

Learned counsel for the petitioner argues that the petitioner does not have the keys of the said room and the same is in the possession of other officer bearer of the society and the petitioner has no objection in case, the investigating officer opens the door of the said room in the presence of the petitioner and other office bearers and takes possession of the items, if any, lying there.

Notice of motion for 02.12.2021.

Mr. Gaurav Bansal, AAG, Haryana, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition accepts notice on behalf of respondent-State.

Learned State counsel submits that the keys of the room are yet to be recovered from the petitioner so as to verify whether certain items, which are alleged to be in the room, are there or not.

Learned counsel appearing for the complainant submits that the petitioner, despite ousted from the office of the office bearers of the society, is not handing over the keys of the room, which was used by him and the articles lying in the said room has been misappropriated by him.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, it seems that there is a dispute between the officer bearers of the society, wherein, allegations and counter allegations are being alleged. The allegations against the petitioner are only of locking the room and not giving the keys of the said room to the other office bearers, which keys, according to the learned counsel for the petitioner are not with the petitioner and the petitioner also does not have any objection in case, lock, if any, of the said room is opened by the Investigating Officer in the presence of the petitioner and other office bearers and the possession of the items lying therein is given to the society.

In view of the above and as the learned counsel for the petitioner undertakes before this Court that the petitioner is ready to join and cooperate in the investigation, the petitioner has made out a case for the grant of anticipatory bail to him.

The petitioner is directed to join the investigation forthwith. In the event of her arrest, he shall be released on interim bail to the satisfaction

of the Arresting Officer/Investigating Officer on his furnishing bail bonds/surety bonds to the satisfaction of the Arresting Officer/Investigating Officer subject to the following conditions:-

(i) That he shall make himself available for interrogation by the police officer as and when required.

(ii) That he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the said facts to the Court or to any police officer.

(iii) That he shall not leave India without prior permission of the Court.

(iv) That he shall abide by all the conditions as enshrined under Section 438(2) Cr.P.C.

It is made clear that the Investigating officer will open the door of the room as and when a request to the said effect is addressed to him by the competent authority of the society but, the same be opened in the presence of the petitioner as well as complainant and the proceedings of the same be recorded for future references. ”

Learned State counsel on instructions from ASI Ramesh Kumar, states that in terms of the order of this Court reproduced before, the petitioner has joined the investigation and no further interrogation is required at this stage.

Learned counsel for the petitioner undertakes that petitioner will join investigation and also cooperate with the investigating agency in case he is required for the same in future as well.

In view of the above, the order dated 16.09.2021 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join investigation as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the

CRM-M-38428-2021

:4:

investigating agency that petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate order.

The petition stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

02.12.2021

rimpal

Whether speaking/reasoned : Yes

Whether reportable : No