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

CRM-M-42612 of 2021
Date of decision: 03.11.2021

Naresh

Petitioner

Versus

State of UT Chandigarh

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R. S. Cheema, Senior Advocate with
Mr. Arshdeep Singh Cheema, Advocate for the petitioner.

Mr. J. S. Toor, APP, U.T., Chandigarh.

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AVNEESH JHINGAN, J (Oral):

1. This petition under Section 438 Cr.P.C. is filed seeking anticipatory bail in FIR No. 25 dated 25.2.2020, under Sections 420, 468, 471 and 120-B IPC and Section 13(1)(b) and 13(2) of the Prevention of Corruption Act, 1988 (Section 409 IPC added later on), registered at Police Station North (Sector 3), Chandigarh.

2. A complaint was received regarding embezzlement in the Accounts Branch of the Police Department of Union Territory, Chandigarh. The allegations were against the officials named in the complaint, an enquiry was held. The bank was asked to supply bank statement and other details. Apart from other things, it was found that Head Constable-Gurmail Singh was issued arrears on the basis of a forged order dated 2.6.2019. The enquiry revealed that the order dated 2.6.2019 was never issued by E-7

Branch. The petitioner was posted in the Accounts Branch to assist Balwinder Kumar Junior Assistant Incharge. Data from December, 2019 was checked and it was found that thirty nine police officials were disbursed excess amount, than their actual dues. On the basis of the evidence collected, FIR was registered and matter is under investigation.

3. The Union Territory filed the reply, copy was supplied to learned senior counsel for the petitioner. With the reply, there is an annexure in a sealed envelop regarding relevant part of investigation and statements of accounts. The envelop was opened, documents perused and returned to learned counsel for Union Territory, Chandigarh.

4. Learned senior counsel for the petitioner submits that it is not a case where custodial interrogation is required. The attempt of the investigating agency is to protect the real culprits. The contention is that the FIR is of February, 2020 and the petitioner was not touched for one year till the arrest of Balwinder Kumar Junior Assistant. He further submits that in the reply filed before the Sessions Court, the allegation against the petitioner was only with regard to preparation of salary bill of Gurmail Singh. Reliance is placed upon salary bill of Gurmail Singh to show that it was not signed by the petitioner but was signed by the Drawing and Disbursing Officer and one Yoginder Singh. It is argued that during investigation, the petitioner had offered his specimen signatures for comparison. The submission is that new case of disproportionate assets of the petitioner from his known source of income is being set up in the reply filed before this Court. There was no such allegation in the FIR and the petitioner was never put to notice.

5. Learned senior counsel for the petitioner submits that the petitioner, in addition to his own duties, was incharge of the Canteen and with such a heavy work load there can be chance of mistake or over sight. It is argued that the petitioner is not the beneficiary in the case.

6. Learned counsel for Union Territory submits that there is a big scam, the matter is still under investigation, there is enough evidence at this stage against the petitioner to show that he was the master mind and actively involved in the scam. The accused used to enter appropriate amounts in the salary ledger but while updating the data on portal, the amounts were changed. The petitioner was preparing the bills and making entries in the computer. He contends that it is factually in correct that role of the petitioner was restricted only to the excess payment made to Head Constable Gurmail Singh. The contention is that during investigation it has come to light that the petitioner had availed loan of approximately Rs.23,00,000/- and repaid the same within two years, that too in cash. It is further argued that as per the income-tax returns of the petitioner and his wife, their annual gross income was approximately Rs.45,00,000/- and they had made investment of approximately Rs.1,50,00,000/-.

7. Learned counsel for Union Territory relies upon the pleadings in the reply to submit that accused were working like a well oiled machine to embezzle the public money. A person was deputed to collect the booty from the beneficiaries. He submits that there are amounts transferred in the bank accounts of the petitioner as well as his wife. The investigation is with regard to payments made from 2016 onwards. The relevant documents including the bills are missing from the record on the basis of which

payments were made. To conclude the arguments, it is submitted that investigating agency is moving ahead in a very fair manner. Only after collecting relevant information and evidence, the officials are being proceeded against rather than in a hurried manner.

8. Learned senior counsel for the petitioner submits that the loans allegedly cleared in cash by the petitioner were taken by him in 2017 and 2018, i.e., earlier to registration of the FIR and there is no allegation in the FIR against the petitioner with regard to disproportionate assets. The petitioner joined investigation twice and no such question was posed to him with regard to his income and investment.

9. The allegations in the present case *prima facie* indicate an economic offence. The Supreme Court in ***State of Gujarat Versus Mohanlal Jitamalji Porwal and others (1987) 2 SCC 364,*** held :-

> *"5. ....The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest....."*

10. In ***Y.S. Jagan Mohan Reddy Versus CBI (2013) 7 SCC 439,*** the Supreme Court held as under:-

> *"34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.*
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> *35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations."*

11. The economic offences are well planned and well knitted web made by the accused. Every person involved has a specific role. One end left loose ensures that the entire web disappears. From the pleadings, it is forth coming that it is not disputed that the petitioner was working in A-4 Branch (Accounts Branch).

12. As per the allegations, to start with it was found that there were excess payments made to 39 police officials. With the progress of investigation, the number swelled to 154. Some of the payments were made by forging the order.

13. It would not be out of place to note that for disbursement of

the pay of the police officials, e-sevarth portal was provided by NIC. Before entering the data, the pay was entered in the salary register. On the basis of salary register, entries were made on the portal by A-4 Branch (Accounts Branch) headed by Balwinder Kumar in the present case. The police officials were deputed to assist the Branch Incharge and to operate the computer.

14. As per allegations, the entries of salaries were appropriately made in the salary register but the accused in connivance with each other made incorrect entries on the portal. They were working in such an organised manner that a person was deputed to collect money from the beneficiaries.

15. Against the petitioner, apart from the disclosure statement of co-accused Balwinder Kumar, there is other evidence as per the reply filed and report produced in the sealed envelop.

16. The contention of learned senior counsel for the petitioner that the petitioner was not touched for almost a year till the arrest of co-accused Balwinder Kumar does not dilute the role of the petitioner. The matter was enquired into, the investigation is continuing, it is only on evidence having been collected against the petitioner that he is being proceeded against.

17. The contention that the allegation against the petitioner is only with regard to excess payment made to Head Constable Gurmail Singh does not appears to be not well-founded. As per learned counsel for Union Territory, Chandigarh, the petitioner was preparing salary bills, there was no requirement of his appending the signatures on the bills. As per the pleadings in the reply and the annexures annexed, the petitioner is being

attributed role in excess payment made to other officials apart from Head Constable-Gurmail Singh.

18. The argument that the petitioner was incharge of the Canteen in addition to his own duties and there could be over-sight or mistake need not be commented upon. Suffice to say that the allegations are of not only making incorrect entries on the portal but releasing excess payment on the basis of forged order.

19. It would not be appropriate for this court at this stage to comment upon the contention that a new case of disproportionate of assets is being made before this court. It would be appropriate to mention that the matter is still under investigation. With the lifting of each veil, more facts are being revealed. It would be for the investigating agency to decide at an appropriate stage how to use or construe the results of the investigation.

20. The documents produced in sealed envelop is not being commented upon as it would affect further investigation. Suffice to say that apart from the allegations in the reply filed before this Court, there is some more material available against the petitioner.

21. The petitioner is well versed with the working of the Accounts Branch as he was posted there. As per the reply filed, the original documents on the basis of which the payments were made are not traceable, a deeper probe would be necessary. The petitioner at this stage of the investigation would be in a position to tamper with the evidence. It is a case where custodial interrogation is required. No case is made out for grant of anticipatory bail.

22. The petition is dismissed.

23. However, nothing stated above shall be taken as an expression of opinion on the merits of the case.

[AVNEESH JHINGAN]
JUDGE

3rd November, 2021
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1. Whether speaking/ reasoned	:	Yes
2. Whether reportable	:	Yes