IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(106)

CRM-M-44326-2021.
Date of Decision:-22.10.2021.

Major Singh

……Petitioner

Versus

State of Punjab

……Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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Present: Mr. H.S. Saggu, Advocate for the petitioner.
Mr. Saurav Khurana, DAG, Punjab.
(Through Video Conferencing)

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VIKAS BAHL, J. (Oral)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.98 dated 26.09.2021 under Sections 409, 465, 467, 468, 471 and 120-B of IPC, registered at Police Station Chhajali, District Sangrur.

Brief facts of the prosecution case are that Palwinder Singh was working as Branch Manager and the petitioner was working as a Cashier in The Sangrur Central Cooperative Bank Branch, Chhajli and during that period it was stated that the two of them in collusion with each other had embezzled to the tune of Rs.17,96,570/-. In the inquiry which had been marked by the Senior Superintendent of Police to the Deputy Superintendent of Police, Sub-Division, it was prima facie found that the petitioner along with the said Palwinder Singh had embezzled the said money during the period ranging from 2017 to 2019 when the petitioner as well as the said Palwinder Singh were posted in the Branch as Cashier and Branch Manager, respectively. It was found that an amount of Rs.3,51,700/- had been embezzled by making unauthorized withdrawal from saving/pension accounts, Rs.13,84,000/- had been embezzled from Short Term Loan Account by misusing powers and Rs.60,870/- had been embezzled by issuing cheque books to Short Term Members without taking stationary charge and the said embezzlement was made in saving/pension accounts by forging the signatures/thumb impressions of account holders and it was found that signatures of some account holders did not match with specific signatures and in some cases even the account holder had died prior to the payment having been made. In the inquiry, it was also recorded that in fact the petitioner and the said Branch Manager had even admitted and they had together returned Rs.7,72,870/- out of the total embezzled amount of Rs.17,96,570/-.

Learned counsel for the petitioner has submitted that the petitioner was only a Cashier and he was duty bound to follow the instructions of the Branch Manager and, thus, the petitioner could not be held liable. It is further argued that an amount of Rs.7,72,870/- has already been recovered and the petitioner is ready to join the investigation.

This Court has considered the arguments raised by the learned counsel for the petitioner.

The allegations against the petitioner and his co-accused are very serious inasmuch as the embezzlement to the tune of Rs.17,96,570/- has been alleged to have been committed by the petitioner and his co-accused, Palwinder Singh. An inquiry has also been held in the matter and it has prima facie been found that the petitioner along with the Branch

Manager, who were posted together during the same period in the The Sangrur Central Cooperative Bank Branch, Chhajli had caused the embezzlement by making unauthorized withdrawals from saving/pension accounts, Short Term Loan Account as well as by issuing cheque books of Short Term Members without taking stationary charge and the same was done by forging the signature/thumb impression of account holders and the money was withdrawn from some accounts where the account holder had even died prior to the payments having been made. Mere recovery of a part of the embezzled amount does not entitle the petitioner the concession of anticipatory bail, rather, it is indicative of admission of guilt. The anticipatory bail application of the co-accused i.e. Palwinder Singh had been dismissed by a Co-ordinate Bench of this Court vide order dated 12.10.2021 passed in CRM-M-42987-2021, after considering the fact that the present case relates to an economic offence and after considering the law laid down by the Hon'ble Supreme Court in ***State of Gujarat Vs. Mohanlal Jitamalji Porwal and others, (1987) 2 SCC 364*** as well as ***Y.S. Jagan Mohan Reddy Vs. CBI, (2013) 7 SCC 439***. The relevant portion of the said order is reproduced hereinbelow:-

> *"The present case relates to economic offence.*
>
> *The Supreme Court in* ***State of Gujarat Versus Mohanlal Jitamalji Porwal and others (1987) 2 SCC 364,*** *the Supreme Court held as under:-*
>
> > *"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…..”

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.

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.”

The contention of the learned counsel for the petitioner that in the FIR there are no specific allegation of petitioner impersonating is of no avail at this stage. Suffice-to-say that

FIR is only an information given for initiation of criminal proceedings and is not supposed to be an encyclopedia of facts. A detailed inquiry was held by SSP in the present case. To have a deeper probe and to unearth the modus-operandi, custodial interrogation of the petitioner is required. The fact that there was recovery of Rs.7,72,870/- does not dilute the allegations of embezzlement. A bald statement has been made that the petitioner was a clerk and not a Branch Manager but nothing has been produced with the petition to substantiate the statement made.

Considering the facts and circumstances of the case in totality, gravity of allegations and the fact that public money is involved, no case is made out for grant of anticipatory bail.

Dismissed."

Keeping in view the above facts and circumstances, moreso, the allegations against the petitioner, the present petition has no merit and, thus, deserves to be dismissed.

Accordingly, the present petition is dismissed.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

October 22, 2021.
sandeep
Whether speaking/reasoned:- Yes/No
Whether Reportable:- Yes/No