

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

CRM-M-10 of 2022 (O&M)

Date of decision: 18.01.2022

Hira Singh Yadav

Petitioner

Versus

State of Haryana

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. APS Deol, Senior Advocate with
Mr. H. S. Deol, Advocate for the petitioner.
Ms. Dimple Jain, Assistant Advocate General, Haryana.

AVNEESH JHINGAN, J (Oral):

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

CRM-882 of 2022

The application is allowed, subject to all just exceptions. The documents annexed with the application are taken on record.

Main petition

This petition under Section 438 Cr.P.C. is filed seeking anticipatory bail in FIR No. 3 dated 2.5.2018, under Section 109 IPC and Section 13(1)(E) of the Prevention of Corruption Act, 1988 registered at Police Station State Vigilance Bureau, Ambala.

The petitioner was holding the post of Secretary, Pipli Primary Agriculture Cooperative and Credit Society. A complaint was made by

Jaipal Singh against petitioners, regarding amassing assets disproportionate to the known sources of income. During enquiry, it was found that the petitioner and his family members had deposited unaccounted cash of Rs.3,79,73,314/- in different accounts. Further, during his service tenure, Rs.91,84,373/- were deposited by cheques and transfer entries. The petitioner and his family members had spent Rs.2,03,23,420/- for purchasing properties, constructed a residential house in Kurukshetra and acquired 12 commercial sites at Dharuhera. During enquiry, it revealed that the petitioner and his family members earned Rs.74,68,570/- from salary and other sources including sale of ancestral property. Before registration of the FIR during inquiry, the petitioner filed reply dated 29.9.2017 and made a statement on 21.9.2017. The FIR was registered on 2.5.2018 after getting sanction from the competent authority. After registration of the FIR, the petitioner was served with a notice, he filed a petition under Section 438 Cr.P.C before Additional Sessions Judge, Kurukshetra. The petition was dismissed vide order dated 18.6.2019. The operative part of the order is quoted below:

“5. The over all allegations, so cited in the police reply raises an accusing finger against the petitioner. Despite lengthy arguments, the petitioner could not convince this Court, as to how the bunch of properties shown in the police reply were acquired by him during his service tenure, when he only had an income of total Rs.72 lakhs. Thus viewing from any angle, the case of the petitioner for grant of anticipatory bail cannot be considered, keeping in sight the police reply which is

specific and supported with documentary evidence and which also demands for custodial interrogation.”

The second anticipatory bail petition was filed before Additional Sessions Judge, Kurukshetra which was dismissed as withdrawn on 7.4.2021. Third petition filed under Section 438 Cr.P.C., was dismissed vide impugned order dated 24.12.2021.

The petitioner contended before the Sessions Court that there is change in circumstances as the petitioner is suffering from over weight, blood pressure, sugar and the petitioner had submitted all the relevant documents including list and statement of properties along with the amounts.

It would not be out of place to note here that in the petition filed before this court, it was nowhere pleaded that the petitioner had earlier filed two anticipatory bail petitions, one was decided by speaking order and the other was dismissed as withdrawn. The said fact was revealed from the impugned order. Thereafter, vide order dated 5.1.2022, the petitioner was directed to place on record the earlier orders passed in the anticipatory bail petitions. In pursuance to the order, CRM 882 of 2022 is filed annexing the orders.

Learned senior counsel for the petitioner submits that the petitioner provided list of properties and he co-operated during enquiry, hence his custody is not required. He further submits that this is the first petition before this Court under Section 438 Cr.P.C.

Reply filed by the State is taken on record. It is pleaded in the reply that the petitioner was served with notices under Section 160 Cr.P.C.

for filing reply and joining investigation. The petitioner filed reply but refrained from joining the investigation. It is further pleaded that the investigation is lingering as the petitioner could not be apprehended.

The FIR was registered in the year 2018. A preliminary enquiry was held. The petitioner filed reply and got a statement recorded in the preliminary enquiry. The Investigating Officer not being satisfied with the reply after obtaining sanction got the FIR registered.

The prayer for anticipatory bail of the petitioner was declined by Additional Sessions Judge way back on 18.6.2019 by passing a speaking order. The second petition for anticipatory bail was filed with similar prayer but was dismissed as withdrawn on 7.4.2021. It was the third petition for anticipatory bail on which the impugned order was passed.

In the third petition, it was stated that there is change in circumstances as the petitioner is suffering from over-weight, blood pressure and sugar. Further that petitioner had submitted relevant documents including list of properties and statement of properties.

Supreme Court in **G.R.Ananda Babu v. State of Tamil Nadu and another**, 2021(1) RCR (Criminal) 843 held as under:

“7. As a matter of fact, successive anticipatory bail applications ought not to be entertained and more so, when the case diary and the status report, clearly indicated that the accused (respondent No. 2) is absconding and not cooperating with the investigation. The specious reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a

speaking order and that too by the same Judge.”

The petitioner has been able to delay the investigation since 2018. The petitioner is absconding since dismissal of the first petition for anticipatory bail in June, 2019, resultantly the matter is still under investigation.

The petitioner was served with notices under Section 160 Cr.P.C. by the Investigating Officer. He never joined the investigation. For filing third petition for anticipatory bail, reliance is placed upon the replies filed earlier to rejection of the prayer for anticipatory bail.

Without any change in circumstances, successive petitions for anticipatory bail are being filed. No ground is made out for entertaining the prayer for anticipatory bail, especially considering the fact that no challenge was made to order dated 18.6.2019 rejecting the anticipatory bail on merits.

The petition is dismissed.

**[AVNEESH JHINGAN]
JUDGE**

18th January, 2022

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| 1. Whether speaking/ reasoned | : | Yes /No |
| 2. Whether reportable | : | Yes /No |