

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-49745-2021 (O&M)
Date of Decision:-27.10.2022

Rajesh Kumar Babbar ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Raman Goklaney, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab,
assisted by ASI Ranjit Singh.

Mr. Manu Loona, Advocate for the complainant.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.269, dated 30.9.2021, Police Station Sadar Fazilka, under Section 420 of Indian Penal Code.
2. While granting interim bail to the petitioner, the following order was passed on 7.1.2022:

“The present petition has been filed for the grant of anticipatory bail to the petitioner in FIR No.269 dated 30.09.2021 under Section 420 IPC, registered at Police Station Sadar, Fazilka.

Learned counsel for the petitioner argues that the allegations alleged against the petitioner is that though the petitioner belongs to the General category but the MGNREGA card, which the petitioner got prepared in the year 2014, described him as a

Scheduled caste. Learned counsel submits that the petitioner cannot be blamed for the said act of the authorities for the reason that the MGNREGA card was prepared by the authorities executing the said scheme and at no given point of time, the petitioner had given information to the said agency that the petitioner belonged to the Reserved category of the Scheduled caste. Learned counsel further submits that in fact the said discrepancy has occurred not only in the MGNREGA card issued to the petitioner but also to the other residents of the village who belong to the General category, wherein they have also been shown as Scheduled caste and hence, in fact the fault lies with the authority executing MGNREGA Scheme and the petitioner has nothing to do with the said act.

Learned counsel further submits that even otherwise, securing a job under MGNREGA has no differentiation as to whether the person holding the card belong to the General Category or reserved category and the said factum of mentioning of petitioner as scheduled caste in the said MGNREGA card, confers no specific incentives/benefits and the petitioner has infact not got any such benefit even as of now.

Learned State counsel concedes the factum that the cards prepared under the MGNREGA scheme were done by the employees working under the said scheme and not by the petitioner and also concedes that other residents of the village, who also belong to the General category, were also described as scheduled castes.

Learned counsel for the complainant submits that in fact, the discrepancy in the card is not restricted to the change of the category of the petitioner from General to Scheduled caste but even the other factums mentioned therein are also manipulated including the name of the nephew of the petitioner mentioned in the said card and therefore, the custodial interrogation of the petitioner is necessary to find out the truth behind the issuing of the said MGNREGA card in favour of the petitioner.

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

In the present case, while considering the plea of the petitioner for grant of anticipatory bail, this Court is not to consider whether the petitioner is guilty or innocent of the allegation. The prima facie view is to be made by the Court as to how, the purpose of investigation can be achieved in the facts and circumstances of this case.

Keeping in view the facts and circumstances of the present case, which have been noticed hereinbefore, as nothing is to be recovered from the petitioner, the purpose of investigation will be achieved in case the petitioner is directed to join the investigation and cooperate.

Adjourned to 15.03.2022.

The petitioner is directed to join the investigation forthwith. In the event of his 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.”

3. Learned State counsel, upon instructions from ASI Ranjit Singh, has informed that pursuant to interim directions, the petitioner has since joined investigation and he is not required for any custodial interrogation.
4. Having regard to the aforestated position, wherein the petitioner is stated to have joined investigation and is not required for any custodial interrogation, the petition is accepted and the interim directions issued by this Court vide order dated 7.1.2022 are hereby made absolute, subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438(2) Cr.P.C.

27.10.2022

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**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No