IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-52470 of 2022 (O&M)
Date of Decision: 14th December, 2022

Waseem Akram

Petitioner

Versus

State of Haryana

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Mahir Sood, Advocate for the petitioner.
Ms. Geeta Sharma, DAG, Haryana.
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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. 36 dated 16.9.2022, under Sections 409, 420, 467, 468, 471/120-B and 201 IPC (added later on) and Section 13(1)-A and 13(1)-B of the Prevention of Corruption Act, 1988 (for short, 'the Act') registered at Police Station State Vigilance Bureau, Gurugram.

2. The relevant facts are that a complaint was moved by Mahender alleging that embezzlement was being done at Nuh Toll Plaza T-39. The officials of the Public Works Department were issuing forged and fabricated receipts. A team was constituted to check Toll points at Sondh, Chhrora and village Pathredi in district Nuh. After checking, the report was submitted and it was found that fake receipt books were printed, the toll was being collected by issuing fake receipts. As per the rule, the toll receipt books are to be printed by Public Works Department (B&R) Headquarter, Panchkula, to be issued by the Executive Engineer to Junior Engineer Incharge of Toll Points. During investigation, it revealed that the employees

at the Toll Plaza were aware of the forged receipt books. Amount of Rs.20,000/- to Rs.30,000/- daily was being collected on Toll Plaza which was divided equally amongst the accused and only the amount collected on original receipts was deposited. The embezzlement was estimated of Rs.18,00,000/-. Two accused-Arshad and Sajid were arrested on the spot. The allegations against the petitioner are that he was given an additional charge of Pathredi Toll Point. He was on duty from 19.7.2022 to 15.9.2022 at Pathredi Toll Point 67.750 for issuing receipts. From the recovered toll receipts, it was found that they were not having date, month and number of the vehicle and no record of the details was kept. The petitioner had not given the account to the department. He had taken Rs.50,000/- from Arshad.

3. Learned counsel for the petitioner submits that it is a case of false implication, the petitioner was never associated with Toll Plaza. He relies upon the duty roster annexed with the petition as Annexures P4 to P6. It is further argued that his superior had sent him an e-mail on 12.12.2022 which is produced in court (taken on record) stating that toll tax was not related to the office of the petitioner. He further argues that no recovery is to be made from the petitioner.

4. Learned counsel for the State vehemently opposes the prayer for grant of anticipatory bail. She submits that the accused in connivance with each other were maintaining parallel receipt books. She further submits that the petitioner had issued toll receipts from 19.7.2022 to 15.9.2022 and he was having additional charge of Pathredi Toll Point.

5. The observations made hereinafter shall not be construed as an

expression of opinion on the merits of the case, same are being made for dealing with the contentions raised by learned counsel for the petitioner in anticipatory bail.

6. The allegations in the FIR are serious and relate to economic offence and these cases are to be dealt differently. In such cases, a well planned web is casted, each person involved has a definite role to play. The officials of Public Works Department were given the duty of collection of toll and parallel receipt books were got printed and the collected amount was distributed amongst themselves. A deeper probe is required to unearth the *modus operandi* adopted for which custody of the petitioner would be necessary.

7. There is another aspect to be considered that number of officials were in connivance, if got an opportunity would be able to tamper with the evidence. The e-mail produced by learned counsel for the petitioner received from Sub Divisional Engineer dated 12.12.2022 *prima facie* is an indicator that the petitioner being well aware of the *modus operandi* adopted would be able to influence the witnesses and tamper the evidence.

8. The contention raised by learned counsel for the petitioner relying upon the duty roster Annexures P4 to P6 does not enhance the case for grant of anticipatory bail. From the perusal of the duty roster, it is forthcoming that it deals with deputed temporary duty in addition to their own duty at Toll Point No. 39. The duty roster is from 21.5.2022 to 10.7.2022 whereas as per the reply filed by the State, the petitioner had issued receipts at Pathredi Toll Point 67.750 from 19.7.2022 to 15.9.2022

and he was given an additional charge.

9. The argument that no recovery is to be made from the petitioner lacks merit. As per the case of the State, the petitioner till date had not given the account to the department.

10. No case is made out for grant of anticipatory bail.

11. The petition is dismissed.

[AVNEESH JHINGAN]
JUDGE

14th December, 2022
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1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No