

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

209+102

CRM-M-1261-2023 (O&M)
Date of decision: 11.09.2023

Sukhwinder Singh and another

..Petitioners

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Jasdeep Singh Gill, Advocate for the petitioners.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J

1. On 13.012023, this Court had passed the following order:-

“Learned Senior Counsel, inter alia, contends that on the same set of allegations, first complaint, which was made, was investigated and conclusion drawn thereon vide Annexure P-3, that it is a civil dispute. On the same set of allegations, civil suit, Annexure P-6, wherein also the pleading was with regard to the siphoning of funds, stands withdrawn pursuant to a settlement arrived at between the parties, thus, the acquiring of knowledge on 31.03.2022, is belied. Apropos, a reference is also made to the Resolutions Annexures P-5 and P-7. The amount received was nowhere agreed upon between the parties to be deposited in the account of the Trust, as per the Agreement, Annexure P-2.

Learned State counsel has submitted that the agreement in question was only with regard to the investment and change in Governing Body. The allegations with regard to the siphoning of the funds have to be investigated for which custodial interrogation of the petitioners is required.

Learned counsel for the complainant submits that the control of the entire Trust was still jointly with the petitioners and the complainant and as per the agreement and the amount paid by the complainant to

the petitioners was meant for the Trust. The earlier complaint and civil suit as referred to further the case of the petitioners has no bearing inasmuch as they were meant only for enforcement of the agreement entered into between the parties. However, the present FIR is with regard to the embezzlement of funds as the same were not meant for their individual purpose but for the Trust.

Adjourned to 01.03.2023.

Meanwhile, the petitioners are directed to join the investigation on or before 17.01.2023. In the event of arrest of the petitioners, they shall be released on interim bail to the satisfaction of the Arresting Officer, subject to compliance enshrined under Section 438(2) Cr.P.C. Even thereafter, they will appear as and when called by the Investigating Agency. The petitioners are also directed to surrender their respective passports.

However, it is clarified that if the petitioners do not join the investigation as required by the Arresting/Investigating Officer, this interim order shall be deemed to have been vacated.”

2. Learned counsel submits that in pursuance of the afore-mentioned order, the petitioners have not only joined investigation but also fully cooperated with the investigating agency. On having been granted permission to go abroad, the petitioner No.1 had within the stipulated time period returned. He further submits that in case the investigating agency requires the petitioners to appear, they shall make themselves available without demur.

3. Learned State counsel has filed status report dated 11.09.2023 today in Court. The same is taken on record. The relevant paragraphs No.10 and 11 thereof read thus:

“10. That after conducting the investigation, the Special Investigation Team submitted its report dated 15/06/2023 before the SSP, District SAS Nagar with the findings that the dispute in the present case pertains to be of civil nature and thus, recommended to submit the cancellation report in the present case/FIR No. 532 (supra).

11. That after approval of the aforesaid report of the Special Investigation Team by the SSP, District SAS Nagar, the cancellation report was prepared in the present case/FIR on 05/09/2023, which is pending codal formalities and shall

soon be presented before the Ld. Court of competent jurisdiction on completion of the codal formalities.

4. He further on instructions from SI Darshan Singh affirms the factum of joining the investigation by the petitioners and had cooperated with the investigating agency. He also submits that they are not required.
5. In view of the above, petitioner No.1 prays for withdrawal of CRM-36910-2023. Ordered accordingly.
6. Considering the statement of learned counsel for the State and the status report filed, without expressing any opinion on the merits of the case, anticipatory bail petition filed by the petitioners is allowed and the order dated 13.01.2023 granting interim bail to them, is hereby made absolute, subject to compliance of conditions as specified under Section 438(2) Cr. P.C
7. However, it is made clear that if the petitioners fails to join and cooperate with the investigating agency as and when required, the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to them.

11.09.2023

Ankur

(AMAN CHAUDHARY)

JUDGE

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No