

CRM-M-2254-2022 (O&M)
CRM-M-15318-2022(O&M)
CRM-M-33237-2022 (O&M)
CRM-M-41551-2022 (O&M)
CRM-M-46039-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-2254-2022 (O&M)

Bhupinder Singh Petitioner

vs.

State of Punjab Respondent

CRM-M-15318-2022 (O&M)

Ashu Choudhary Petitioner

vs.

State of Punjab Respondent

CRM-M-33237-2022 (O&M)

Harpreet Singh Petitioner

vs.

State of Punjab Respondent

CRM-M-41551-2022 (O&M)

Nishu Chowdhary Petitioner

vs.

State of Punjab Respondent

CRM-M-46039-2022 (O&M)

Yogesh Kumar Petitioner

vs.

State of Punjab Respondent

Date of Decision : January 27, 2023

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Preetinder Singh Ahluwalia, Advocate
for the petitioner in CRM-M-2254-2022 (O&M).

Mr. Rahul Bhargava, Advocate
with Ms. Arti Kaur, Advocate
for the petitioner(s) in
CRM-M-15318-2022 (O&M) & CRM-M-41551-2022 (O&M).

CRM-M-2254-2022 (O&M)
CRM-M-15318-2022(O&M)
CRM-M-33237-2022 (O&M)
CRM-M-41551-2022 (O&M)
CRM-M-46039-2022 (O&M)

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Mr. Guninder Singh Brar, Advocate
for the petitioner in CRM-M-33237-2022 (O&M).

Mr. B. D. Sharma, Advocate
for the petitioner in CRM-M-46039-2022 (O&M).

Ms. Himani Arora, AAG, Punjab.

Mr. H. S. Batth, Advocate
for the complainant.

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GURBIR SINGH, J. :

This order shall dispose of the above mentioned five petitions filed on behalf of Bhupinder Singh, Ashu Choudhary, Harpreet Singh son of Karnail Singh, Nishu Chowdhary and Yogesh Kumar seeking grant of regular bail in a case registered against them vide FIR No.155 dated 01.08.2021 under Sections 406, 409, 381, 419, 420, 465, 467, 468, 471, 201/120-B IPC at Police Station Urban Estate, District Patiala.

The FIR in question pertains to misappropriation of funds of Punjabi University, Patiala by several of its employees, students and some outsiders as well. The FIR in question was lodged pursuant to a complaint made by Dr. Vikramjit Kumar Kaushik, Registrar, Punjabi University, Patiala wherein initially only seven persons were named as accused namely Nishu Chaudhary, Jatinder Singh (Sevadar), Akashdeep Singh, Sonu Kumar, Harpreet Singh, Vinay and Nisha Sharma.

It is alleged that it was brought to the knowledge of Vice-Chancellor, Punjabi University, Patiala that a fraud had been committed regarding salary/scholarship bills in the names of Akashdeep Singh Jabbal,

Sonu Kumar, Harpreet Singh (son of Karnail Singh), Jatinder Singh, Vinay, Nisha Sharma, all relating to Department of Chemistry, Punjabi University, Patiala on the basis of forgery and fabrication and lacs of rupees had been misappropriated. The Vice-Chancellor constituted a Committee comprising of three members headed by the Registrar which conducted inquiry into the matter, during the course of which record was perused and disputed bills were got examined from Handwriting Expert Dr. Inderjit Singh and it was concluded that the disputed signatures on the bills in question were forged and did not match with those of Dr. Baljit Singh, Co-ordinator/Head of UGC-SAP Program of Chemistry Department. It was further found that Nishu Chaudhary and Jatinder Singh prepared forged salary bills of Research Fellows. The Committee found that the bills were filled in by Nishu Chaudhary and Jatinder Singh who were working together in DPM office and that Jatinder Singh had affixed the forged signatures of Dr. Baljit Singh and that fake rubber stamp had also been affixed on the forged signature of Dr. Baljit Singh on the seven bills which were being examined. It was found that Smt. Raminder Kaur, Superintendent had also connived with Nishu Chaudhary and Jatinder Singh and had prepared and passed the seven forged salary/scholarship bills of Research Fellows pertaining to period w.e.f. January 2021 to April 2021. It was found that none of the beneficiaries were genuine Research Fellows and that the scheme under which the amounts were being claimed had ended in the year 2019. The Committee concluded that Nishu Chaudhary, Raminder Kaur and Jatinder

Singh, Peon had stolen/misplaced/destroyed establishment checking records pertaining to the years 2019-2020, 2020-2021 and 2021-2022 so as to avoid detection. Nishu Chaudhary was also alleged to have made changes in the utilization certificates of UGC-CAS (Physics).

After lodging of the FIR on 01.08.2021 on the basis of complaint made by the Registrar, Punjabi University, Patiala on 15.07.2021, the Registrar, on the basis of further inquiries made by the Committee, furnished information including account details regarding involvement of more accused vide letter no. 1084/R dated 08.10.2021 wherein Sukhdeep Singh, Parminder Singh, Dalip Kumar, Naveen Kumar, Harpreet Singh (son of Amrik Singh), Yogesh Kumar, Narinder, Lovepreet and Gurmukh Singh were also stated to be the beneficiaries of the misappropriated amount.

The allegations against each of the petitioners are that Bhupinder Singh was working as Technical Assistant. The amount credited in his account from the account of University using fake bills is Rs.94,34,288/-. As per his Custody Certificate, he is in custody since 01.10.2021. The amount credited to the account of Ashu Choudhary is Rs.10,24,800/-. He is brother of Nishu Chowdhary and is in custody since 29.09.2021. He is not employee of the University. Harpreet Singh (son of Karnail Singh) was former Research Scholar (Ph.D. Student). The amount credited to his account was Rs.77,44,446/-. The balance amount in his account was Rs.18,32,928/- which is freezed. He is also not an employee of the University and is in custody since 17.03.2022. Nishu Chowdhary was

working as a Senior Assistant in the University. No amount was credited in his account from University's account. However, balance in his account was 9,88,244/-, which stands freezed. As per Custody Certificate, he is in custody since 01.10.2021. Yogesh Kumar was working as a Clerk on Ad-hoc basis in the University. The amount credited in his account was Rs.1,01,93,873/-. His services were terminated. No amount was freezed from his account. He is in custody since 22.05.2022.

Thus, the case of prosecution is that Nishu Chaudhary, in connivance with other officials of the University, had prepared forged and fabricated bills and had got released huge different amounts as scholarships and got them credited in the accounts of their known persons, from whom he used to get back some amount in cash.

Learned counsel for the petitioners submit that the petitioners Bhupinder Singh, Ashu Choudhary and Yogesh Kumar were not named in the FIR. Only Nishu Chowdhary and Harpreet Singh son of Karnail Singh were named in the FIR. The petitioners have been falsely implicated. Every year, audits of the accounts of University are conducted. None of the auditors have pointed out any irregularity in the accounts. There is no allegation of any forgery or cheating against the petitioners except Nishu Chowdhary. The case of the petitioners is based on a documentary evidence. Co-accused Sonu Kumar has already been granted regular bail in case CRM-M-49865-2021 (O&M) by a Co-ordinate Bench of this Court on 23.12.2021. The case is triable by Magistrate. The challan is already

presented but the trial is going on at a slow pace. The trial is likely to take considerable time. The culpability of the petitioners would be decided only during trial of the case. The object of bail is to secure the appearance of the accused during trial of the case. Refusal of bail is a restriction on the personal liberty of an individual guaranteed under Article 21 of the Constitution of India. There is no ground to further detain the petitioners. Reliance is being placed on Sanjay Chandra v. CBI reported as 2012(1) SCC 40, Dipak Shubhashchandra Mehta v. CBI reported as 2012(4) SCC 134, Ashok Dhingra v. NCT of Delhi reported as 2000 (9) SCC 533, Giri Raj v. State of Haryana reported as 2019(1) RCR (Criminal) 530, Anil Kumar v. State of Punjab reported as 2013(3) RCR (Criminal) 854, Surinder Pal Singh v. State of Punjab reported as CRM-M-22982-2020, Rajesh v. State of Haryana reported as CRM-M-16050-2021 and Satender Kumar Antil v. CBI reported as Doc ID 2011291.

Learned State counsel assisted by counsel for the complainant has opposed all the petitions and submitted that it is patently proved that petitioner Nishu Chowdhary had prepared bills/forged documents and got the different amounts transferred in the accounts of other persons including petitioner Bhupinder Singh, Ashu Choudhary, Harpreet Singh son of Karnail Singh and Yogesh Kumar. Ashu Choudhary is brother of Nishu Chowdhary. The said amount could not be recovered. There is no ground to release them on bail. However, learned State counsel has not denied the custody period of the petitioners mentioned above.

Heard.

In a landmark decision in Sanjay Chandra v. Central Bureau of Investigation reported as (2012) 1 SCC 40, the Hon'ble Supreme Court of India crystallized the law in respect of regular bail in the following paragraphs :-

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon

which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.

23. *Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.*

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46. *We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge-sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.*

47. *In the view we have taken, it may not be necessary to refer and discuss other issues canvassed by the learned counsel for the parties and the case laws relied on in support of their respective contentions. We clarify that we have not expressed any opinion regarding the other legal issues canvassed by the learned counsel for the parties.*

48. *In the result, we order that the appellants be released on bail on their executing a bond with two solvent sureties, each in a sum of Rs. 5 lakhs to the satisfaction of the Special Judge, CBI, New Delhi on the following conditions:*

(a) *The appellants 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 to disclose such facts to the Court or to any other authority.*

(b) *They shall remain present before the court on the dates fixed for hearing of the case. If they want to remain absent, then they shall take prior permission of the court and in case of unavoidable circumstances for remaining absent, they shall immediately give intimation to the appropriate court and also to the Superintendent, CBI and request that they may be permitted to be present through the counsel.*

(c) *They will not dispute their identity as the accused in the case.*

(d) *They shall surrender their passport,*

if any (if not already surrendered), and in case, they are not a holder of the same, they shall swear to an affidavit. If they have already surrendered before the learned Special Judge, CBI, that fact should also be supported by an affidavit.

(e) We reserve liberty to CBI to make an appropriate application for modification/recalling the order passed by us, if for any reason, the appellants violate any of the conditions imposed by this Court.”

In paragraph no.27 of this judgment it is observed as under :-

“45) In ‘Bihar Fodder Scam’, this Court, taking into consideration the seriousness of the charges alleged and the maximum sentence of imprisonment that could be imposed including the fact that the appellants were in jail for a period more than six months as on the date of passing of the order, was of the view that the further detention of the appellants as pre-trial prisoners would not serve any purpose.”

In case **Giri Raj (supra)**, a Co-ordinate Bench of this Court granted bail since accused was in custody for 11 months. It was held as under :-

*“14. The principles laid down by the Supreme Court in **Gurcharan Singh and Others Vs. State (Delhi Administration) AIR 1978 Supreme Court 179** were followed by the Supreme Court in **Miss Harsh Sawhney Vs. Union Territory reported in AIR 1978 SCC 1016** and in*

Mohan Singh Vs. Union Territory, Chandigarh.

In Mohan Singh Vs. Union Territory, Chandigarh, reported in AIR 1978 Supreme Court 1095, even though the counsel for the State argued that the corruption of which the accused was prima facie guilty was substantial, the Supreme Court held that it was not sufficient reason to refuse bail. In paragraph 2 of the said judgment the Supreme Court held thus :-

*“Counsel for the State pressed before us that the corruption of which the appellant was guilty prima facie according to the results of the investigation) was substantial. Let us assume so. Even then refusal of bail is not an indirect process of punishing an accused person before he is convicted. This is a confusion regarding the rationale of bail. This Court has explained the real basis of bail law in **Gurcharan Singh Vs. State (Delhi Administration)** AIR 1978 SC 179; (1978 CrL. L.J. 129).”*

In case **Anil Kumar (supra)**, a Co-ordinate Bench of this Court granted bail since accused was in custody for 07 months. There were allegations of misappropriation of Rs.4.75 crores.

Similarly, in case **Surinder Pal Singh (supra)**, a Co-ordinate Bench of this Court granted bail since accused was in custody for more than 6-1/2 months. There were allegations of misappropriation of Rs.1.05 crores.

Keeping in view the facts that the offence is being tried by Magistrate and there is no other case against the petitioners, further detention of the petitioners would not serve any useful purpose since culpability of the petitioners would be established only during the trial.

All the petitions are, therefore, accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/ Duty Magistrate concerned.

A photocopy of this order be placed on the files of other connected matters.

January 27, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.