

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

CRM-M-16228 of 2022

Date of decision: 24.04.2023

Deepak Kumar

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. J.S. Mahal, Advocate,
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

Mr. Puneet Sharma, Advocate,
for respondent No.2.

NAMIT KUMAR, J.

1. Status report by way of affidavit of Gurmit Singh Sidhu, Deputy Superintendent of Police (Headquarter), Amritsar (Rural), has been filed on behalf of respondent-State, which is taken on record.

2. This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.0200 dated 11.09.2021 under Section 408 IPC, registered at Police Station Chattiwind, District Amritsar Rural.

3. Present FIR has been registered on the basis of application moved to the Senior Superintendent of Police, Amritsar (Rural) by Shri Vijay Kumar Bang, Principal of Amritsar College of Engineering & Technology, 12 Kilometer Stone, Amritsar Jalandhar GT Road,

Amritsar to the effect that petitioner was working as Clerk with the said college and original documents of the students were deposited with him for verification. The contract of the petitioner had come to an end on 30.06.2020. The petitioner without getting his contract extended and without entrusting the original documents of the students, has stopped coming to the college and he has illegally retained some documents of the students and college with him.

4. Learned counsel for the petitioner contended that the petitioner is innocent and has been falsely implicated in the present case. He further submitted that petitioner has not committed any offence and nothing is to be recovered from him. He further submitted that petitioner is not involved in any other case and he is ready and willing to join the investigation.

5. *Per contra* learned State counsel has opposed the prayer for grant of anticipatory bail to the petitioner by submitting that custodial interrogation of the petitioner is required for recovery of the documents. Therefore, he does not deserve the concession of anticipatory bail.

6. I have heard learned counsel for the parties and perused the record.

7. Application filed by the petitioner seeking anticipatory bail has been dismissed by the Court of learned Additional Sessions Judge, Amritsar, vide order dated 08.03.2022 by recording following finding: -

“5. No doubt, the applicant has joined the investigation with the police but he has not got recovered the original

educational documents of the five students. He has left the job without intimating the department and has not returned all the documents to the college. Recovery of said educational documents of the students is must for their career. Due to dispute of the applicant with the college, if any, the students cannot be made to suffer. For recovery of educational documents of the students, custodial interrogation of the applicant seems necessary. Hence, the present bail application under section 438 Cr.PC filed by the applicant stands dismissed and the benefit of interim bail granted to the applicant vide order dated 25.02.2022 stands withdrawn.”

8. As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

9. Petitioner has left his job without any intimation to the college authorities and has stolen the educational documents of the students, as a result of which career of the students is at stake. Moreover, petitioner was granted interim bail by the Court below, however, he did not cooperate with the investigating agency. Thus, his bail application was dismissed by the Additional Sessions Judge, Amritsar vide order dated 08.03.2022.

10. In view of the above, custodial interrogation of the petitioner is necessary for recovery of the documents stolen by him.

Hence, the present petition is dismissed.

11. However, nothing stated hereinabove shall be construed as a final expression of opinion on the merits of the case.

12. Pending application(s), if any, stand disposed of.

24.04.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No