

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

CRM-M-16334-2023

Date of decision : 04.07.2023

Sunder Lal

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Nagar Singh, Advocate for
Mr. A.S. Shera, Advocate for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

On 11th of April, 2023, the following order was passed :-

“The instant petition under Section 438 Cr.P.C., has been filed for grant of anticipatory bail to the petitioner in FIR No.529, dated 31.12.2022, under Sections 409, 420 of IPC, 1860, registered at Police Station Chandhut, District Palwal (Annexure P-1).

Learned counsel for the petitioner contends that the FIR was lodged at the behest of Jagdish Inspector, CM Flying Squad Haryana. The allegations made forth in the FIR shows that the Sarpanch Sunder Lal- petitioner alleged to have been prepared a bill No.95 showing use of 150 cement worth Rs.45,000/-, 1600 feet crusher & 1200 feet stones (rodi) worth Rs.70,000/- & 48,000/- respectively and in this way is alleged to have committed a fraud of Rs.16,34,000/-.

A perusal of the FIR further shows that the allegations authored for the year 2016, wherein Rs. 19,19,800/- in the year 2017 40,53,300/-, in the year 2018 26,94,000/-, in the year 2019 41,83,100/- and in 2020 16,60,000/- was released for various works undertaken by the Gram Panchayat bringing it to the total

of Rs.1,45,10,200/-. The present petitioner-Sarpanch is recorded as accused in the FIR for not depositing amount of Rs.11,36,700/- in Panchayat Fund Account alleging to same have been kept by him and on that basis allegations under Section 420, 409 of IPC, 1860 have been recorded against the petitioner, whereas no other cogent document or prima facie evidence has been put forth in support of the assertions levelled in the instant FIR.

Notice of motion.

On the asking of Court, Mr. Ashok Kumar Sehrawat, DAG, Haryana accepts notice on behalf of respondent-State, who on the basis of pervi report submits that the petitioner had deposited an amount of Rs.1,33,73,500/- in the Cooperative Bank Branch A/c No.003134003000002 i.e., Panchayat Fund Account, but another amount of Rs.11,36,700/- is yet to be deposited by him.

On a query put by the Court to the learned State counsel, he is unable to answer to the effect as to who pass the bill, verified the same and released the amount against bill no.95 alleged to have been prepared by the Sarpanch as forged bill. There is also no report as to whether the cement, rodi and stone crusher was actually used or not, which is expected to be prepared after conducting an investigation by the Technical Staff of Urban Local Bodies Department through Junior Engineer and Measurement Engineer alongwith SDO and XEN, who is finally exercising the power of Drawing and Disbursing Officer, under whose signatures that amount is released. Shockingly none of the officials is arrayed as an accused in the FIR and prima facie it seems that Sarpanch has only been made the suspect and whole burden qua the embezzled amount has shifted on him.

This Court is of the considered view that the offences may be there for Section 409, 420 on which it would not be appropriate to comment at this stage but at the same time does not justifiable to deny the concession of anticipatory bail to the

petitioner, as he is not the only defaulter or the offender in the whole transaction running into crores of rupees.

At this stage, the petitioner is directed to be released on interim bail subject to the satisfaction of Arresting Officer/Investigating Officer, on his joining investigation as and when called for and cooperate in investigation and also shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

Adjourned to 04.07.2023.”

2. Today, Ld. State Counsel submits that the petitioner though has joined the investigation pursuant to the order but an amount of Rs.11,36,700/- is yet to be recovered from him. However, he does not dispute that an amount of Rs.1,33,73,500/- already stands deposited by the petitioner.
3. In the circumstances, the order dated 11th of April, 2023 is made absolute, subject to the conditions as enumerated under Sections 438 (2) Cr.P.C.
4. The petitions stands disposed off.

July 04, 2023
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No