

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

205

CRM-M-23253-2022 (O&M)

Date of decision: 28.03.2023

RAJESH KUMAR

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. G.S. Nagra and Mr. K.S. Rawat, Advocates
for the petitioner.

Mr. Manipal Singh Atwal, DAG Punjab.

Mr. Gurpartap Singh Bhullar and Mr. Sahil Bansal, Advocates
for the complainant.

AMAN CHAUDHARY. J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in FIR No.62 dated 27.04.2022 under Sections 406 and 409 IPC, Police Station Sarhali, District Tarn Taran.

On 26.05.2022, this Court had passed the following order:-

“By filing this petition under Section 438 Cr.P.C., the petitioner has sought pre-arrest bail in case FIR No.62 dated 27.04.2022 under Sections 406 and 409 IPC, Police Station Sarhali, District Tarn Taran.

The FIR was lodged on the complaint of one Dalbir Kaur, who stated that she owns 'Sohal Filling Station (Indian Oil Petrol Pump)' near village Jandoke-Sarhali. She had purchased the same about 11-12 years ago from Novjot Singh. She had appointed Rajesh Kumar (petitioner) for running the petrol pump. As part of his duty, Rajesh Kumar used to deposit the amount in the account of the Sales Officer, who would then supply oil to the Pump. The petitioner also used to deposit the amount of daily sales in the Bank Account. The complainant

alleged that she fully trusted the petitioner in all money matters. The complainant also had a limit with State Bank of India. Transactions regarding the same were also handled by the petitioner. He used to withdraw amount from that account for purchasing oil. On 24.04.2022 at about 11.00 A.M, the complainant received a call from the petitioner that a vehicle carrying the petrol is coming at Pump and she should also come and receive the stock. When the complainant reached at the Pump, the entire Pump was found locked. All the stock was empty. The petitioner was required to deposit a sum of Rs.5,00,000/- in the account of the Sales Officer. Though the amount had been collected as daily sales of the petrol pump, yet he did not make the deposit. The complainant further alleged that the petitioner also did not deposit Rs.8.5 lacs with the Sales Officer. He also did not deposit Rs.2.5 lacs in the limit account of the petitioner. She alleged that the petitioner has misappropriated Rs.29,05,000/-. When she tried to contact the petitioner, his mobile was reported 'switched off'.

Mr.Nagra, Ld. Counsel for the petitioner has argued that the allegations are totally vague. There is nothing on record to show that the petitioner has misappropriated any amount. He states that regular Account Books are being maintained for the sale and receipt at the Petrol Pump. On verification it would be found that there is no misappropriation. The petitioner is ready to join the investigation and cooperate with the Investigating Agency.

On the other hand, Mr.Bawa, Ld. Counsel for the complainant has contended that the complainant wholly relied on the petitioner in handling the money matters of her petrol pump, but the petitioner betrayed her trust and misappropriated a huge amount of Rs.29,05,000/-.

Notice of motion for 20.07.2022.

Meanwhile, in the event of arrest, the petitioner Rajesh Kumar shall be released on interim anticipatory bail to the satisfaction of the Arresting/Investigating Officer, subject to the conditions provided under Sections 438(2) Cr.P.C. The petitioner is also directed to join the investigation and cooperate with the Investigating Agency, as and when required. ”

Learned counsel for the petitioner submits that in pursuance of order dated 26.05.2022, of this Court, the petitioner has not only joined investigation but has also fully cooperated with the investigating agency. He further submits that in case the investigating agency requires the petitioner to appear, he shall make himself available without demur.

Learned State counsel on instructions from ASI Jaswinder Singh affirms the factum of joining the investigation by the petitioner and cooperating with the investigation agency. He also submits that at this stage, the petitioner is not required for further custodial interrogation.

Counter affidavit of complainant Smt. Dalbir Kaur wife of Balbir Singh Sandhu has been filed by learned counsel for the complainant and is taken on record.

In view of the above and without expressing any opinion on the merits of the case, anticipatory bail petition filed by the petitioner is allowed and the order dated 26.05.2022 granting interim bail to him, is hereby made absolute, subject to compliance of conditions as specified under Section 438(2) Cr. P.C

However, it is made clear that if the petitioner fails to join and cooperate with the investigation agency as and when required, the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to him.

(AMAN CHAUDHARY)
JUDGE

March 28, 2023

M.Kamra

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