

In The High Court for the States of Punjab and Haryana
At Chandigarh

- (I)

CRM-M-26513-2022 (O&M)
Date of Decision:- 20.03.2023
- Kulwant Rai

... Petitioner
- Versus
- State of Punjab

... Respondent
- (II)

CRM-M-26340-2022 (O&M)
- Narinder Singh

... Petitioner
- Versus
- State of Punjab

... Respondent
- (III)

CRM-M-29907-2022 (O&M)
- Raj Kumar Sethi

... Petitioner
- Versus
- State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Tanisha, Advocate for
Mr. Sant Pal Singh Sidhu, Advocate,
for the petitioner in CRM-M-26513-2022.

Mr. P.S.Khurana, Advocate,
for the petitioner in CRM-M-26340-2022.

Mr. Satish Sabharwal, Advocate,
for the petitioner in CRM-M-29907-2022.

Mr. Luvinder Sofat, DAG, Punjab
assisted by ASI Angrej Singh.

GURVINDER SINGH GILL, J. (Oral)

1. This order shall dispose of the above mentioned three petitions wherein petitioners Kulwant Rai, Narinder Singh and Raj Kumar Sethi, seek grant of anticipatory bail in a case registered vide FIR No.166 dated 11.10.2017, registered at Police Station City Malout, District Sri Muktsar Sahib, under Sections 409, 420, 465, 467, 468, 471, 477-A, 120-B IPC and under Section 13(1)(c) (d) of Prevention of Corruption Act, 1988.

2. At the time of issuance of interim bail the following order was passed on 19.12.2022:

“These three petitions are filed for seeking anticipatory bail in case of FIR No. 166 dated 11.10.2017 under Sections 409/420/465/467/468/471/477-A/120-B IPC and under Section 13(1)(c) and 13(1)(d) of Prevention of Corruption Act, 1988, registered at Police Station City Malout, District Sri Muktsar Sahib.

Learned counsel for the petitioners claims parity with co-accused Om Paraksh Sharma, who was granted interim anticipatory bail on 22.6.2022 in CRM-M-27162 of 2022.

On 22.6.2022, this Court passed the following order:

"Instant petition has been filed under Section 438 of the Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.166, dated 11.10.2017 under Sections 409, 420, 465, 467, 468, 471, 477-A and 120-B of the IPC and Section 13(1)(c) (d) of Prevention of Corruption Act, 1988, registered at Police Station City Malout, District Sri Muktsair Sahib.

Learned counsel appearing on behalf of the petitioner inter alia contends that case pertains to the alleged embezzlement/misappropriation during the period from October 2013 to February 2016 and that the petitioner had remained posted only for a period of four months i.e. from 10 of October 2013 to 03.02.2014. He submits that the petitioner was a Superintendent in the Correspondence Branch and that the inflation of the bills was carried out by accused Sandeep Singh. It is further contended that varification of the same is to be done by the Accounts Branch and thereafter the payment in question is to be released by the Treasury Branch and/or the Drawing and Disbursing Officer. Verification of the bills was to be undertaken by the said respective branches and not by the petitioner. He further contends that the petitioner already stands superannuated in the year 2015 and that the instant case was registered in the year 2017 and that all persons who have ever remained posted during the above said period have been arraigned as accused. He further contends that the anticipatory bail of the petitioner was dismissed by the Sessions Judge, Sri Muktsar Sajib on 04.06.2022. He contends that the only deficiency noticed in the department enquiry conducted by the respondent officials against the petitioner was that the cash book was not being maintained. He contends that as a matter of fact on account of introduction of the online system, cash books were not maintained in the State of Punjab and it was only after May, 2017 when memo no. 12567-628 was issued by the Head Office the cash books were maintained again. It is submitted that in the departmental inquiry, the punishment was imposed upon the petitioner whereby 3% of the pension amount has been ordered to be recovered from the petitioner. He submits that the even in the said departmental proceedings no criminal liability of the petitioner was determined and the fiscal liability on account of the negligence already stands fortified and the loss has already been recovered. He further submitted that the petitioner was not involved in any other case or illegal activity during his entire service tenure and that he is ready and willing to join the investigation as and when called upon to do so.

Notice of motion.

Ms. Amarjit Kaur Khurana, DAG, Punjab who is present in Court, accepts notice on behalf of respondent-State and seeks time to complete instructions.

Adjourned to 13.07.2022.

In the meanwhile, the petitioner is directed to join the investigation within a period of one week from today and upon his doing so, he shall be released on interim bail subject to the satisfaction of the Investigating/Arresting Officer. However, the petitioner shall continue to join investigation as and when called upon to do so and shall also abide by the terms and conditions as envisaged under Section 438(2) of the Cr.P.C."

Learned State counsel on instructions though opposes the prayer but is not in a position to distinguish the case of the petitioners vis-a-vis the co-accused so far as grant of interim anticipatory bail is concerned.

Without commenting upon the merits of the case and on the basis of parity of the petitioners with the co-accused so far as grant of interim anticipatory bail is concerned, the petitioners-Kulwant Rai, Raj Kumar Sethi and Narinder Singh are granted interim anticipatory bail subject to their joining investigation within a week. In the event of arrest, they shall be released on bail subject to their furnishing adequate bail bonds to the satisfaction of the Investigating Officer. They are directed to join the investigation as and when called for. They shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

List on 20th January, 2023.

Photocopy of this order be placed on the files of connected cases."

3. Learned State counsel, upon instructions from ASI Angrej Singh, has informed that pursuant to interim directions, the petitioners have joined investigation and are not required for any custodial interrogation. It has also been informed that the petitioners are not involved in any other case.

4. In view of the aforestated position wherein the petitioners have joined investigation and they are not stated to be required for any custodial interrogation, the petitions are accepted and the interim directions issued by this Court vide order dated 19.12.2022 are hereby made absolute subject to the condition that the petitioners shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.
5. A photocopy of this order be placed on the file of each connected case.

20.03.2023

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No