

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

CRM-M-31724-2021 (O&M)

Date of decision : 21.08.2023

Rajesh Kumar

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Arnav Sood, Advocate for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab for the respondent.

Mr. Bipan Ghai, Senior Advocate assisted by
Mr. Deepanshu Mehta, Mr. Sahdev & Mr. Kunal Jindia,
Advocates for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition under Section 438 of the Code of Criminal Procedure, 1973 has been filed for grant of pre-arrest bail to the petitioner in FIR No.181 dated 22.07.2021, under Sections 420, 408 & 201 of the Indian Penal Code, 1860, registered at Police Station Model Town, District Hoshiarpur.

(2) Above FIR was registered on the basis of statement made by complainant-Manish Vij with the allegations that petitioner while working with the Firm of his father, namely, Amrit Lal Vij, has committed breach of trust and fraud by embezzling Rs.1,10,42,130/-. In September, 2019,

complainant party received summons from Barooch Court, Gujarat for recovery of Rs.23,07,957.59/-, then they came to know that petitioner had played fraud with them.

(3) The Coordinate Bench, vide order dated 22.05.2023, granted interim bail to petitioner and the same reads as under:-

“The counsel appearing on behalf of the petitioner(s) submits that in compliance of order dated 14.12.2022, Sanjay Gupta, Chartered Accountant on behalf of the petitioner gave his detailed report, which is available with the police and gist of the same is Annexure R-1. The counsel further submits that on the contrary Manik Anand, Chartered Accountant of complainant simply reported that the parties expressed their inability to provide requisite books of account and stated that same are missing and are not available for verification. The counsel for the petitioner further submits that all the account books are available and the entire record is there with the police, so the report (Annexure R-2) of Manik Anand, Chartered Accountant could not be relied upon.

The counsel for the petitioner further submits that the now the police has recommended for cancellation for FIR, so prayer is made that the petitioner be allowed to join investigation with the police.

The State counsel on instructions from ASI Gurdial Singh has not disputed the fact that cancellation report has been prepared and is approved by the SSP and is shortly going to be filed in the Court concerned.

In view of the above, in case of arrest, the petitioner is directed to be released on interim bail by the Investigating Officer/Arresting Officer subject to his own satisfaction. The petitioner should join investigation with the police well in time before the next date of hearing and to abide by the conditions envisaged under Section 438 (2) Cr.P.C.

The report of the Investigating Officer be also called in this context on the next date of hearing.

Now be listed on 21.8.2023.

Photocopy of this order be placed on the connected files.”

(4) Learned Counsel submits that in pursuance of the aforesaid order, petitioner has already joined the investigation and his custodial interrogation is not required.

(5) Learned State Counsel, on instructions from ASI Rajinder Singh, submits that petitioner has joined investigation and as on today, his custodial interrogation is not required.

(6) Learned Senior Counsel for the complainant has vehemently opposed the prayer; but keeping in view the fact that learned State Counsel is not asking for the custodial interrogation, therefore, objection is rejected.

(7) In view of above, interim order dated 22.05.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

(8) It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

(9) The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.

(10) Disposed off accordingly.

August 21st, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>