

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

**CRM-M-28920-2023 (O&M)
Date of decision : 15.11.2023**

Amit Bhalla

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

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

Mr. Kiran Pal Singh, A.A.G., Haryana for the respondent.

Mr. Parminder Singh, Advocate for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.155 dated 10.04.2023, under Sections 408 & 420 of the Indian Penal Code, 1860, registered at Police Station Baldev Nagar, District Ambala.

(2) Above FIR was registered on the basis of complaint made by complainant-Suresh Kumar Sharma, Director-cum-Principal of Delhi Public School, Ambala with the allegations that on 01.02.2023, petitioner tendered his resignation from the post of Accountant. His resignation was not accepted; but he left the job. Consequent upon his resignation, when School

records were checked, it was found that documents, which were in his possession being an employee of the School, have been stolen by him and some documents were also found in burnt condition. Also alleged that petitioner has made a copy of all the records/documents in a pen drive from the Computer(s) of the School without seeking any permission. He has also stolen the expensive mobile phones of the School. Further noticed that fees of the students, amounting to Rs.8.5 Lakh, were manipulated and dishonestly received by the petitioner and same was not reflected in the account ledger. Petitioner also hacked the Email IDs of the School and demanded Rs.10 Lakh for returning the important data and documents to the School.

(3) The Coordinate Bench, while issuing notice of motion on 02.06.2023, granted interim bail to petitioner and the same reads as under:-

“The instant petition under Section 438 Cr.P.C., has been filed for grant of anticipatory bail to the petitioner in FIR No.155, dated 10.04.2023, under Sections 408 and 420 of IPC, 1860, registered at Police Station Baldev Nagar, District Ambala.

Learned counsel for the petitioner contends that it is only after the petitioner submitted the resignation, which was not accepted, certain discrepancies were recorded by the respondent-school authorities in the accounts, which was being managed by the petitioner, wherein he was working as an accountant. It is contended on behalf of learned counsel for the petitioner that no specific allegations relating to the nature of transactions or any categorical assertion against the petitioner are made out, which are in fact absolutely vague and bald.

Notice of motion.

On the asking of Court, Mr. Gagandeep Singh Chhina, AAG, Haryana, accepts notice on behalf of respondent-State, who refers to a report recorded in the order of the trial Court below vide which the anticipatory bail petition was rejected, an

internal audit report for the financial year 2022-23, which found a difference of Rs. 23,11,550/- between the fee, which was to be collected and actually not realised in the bank accounts.

Considering the aforesaid submissions made by counsel for the respective parties, it is not clear from the audit report as well as from the version narrated in the FIR that whether it was the petitioner, who was working as an accountant, was responsible for such difference being reflected on the basis of proposed collection of school fee, which is not reflected in the book of accounts, and was actually collected or not by the petitioner.

Moreso, the ingredients of Sections 408 and 420 of IPC, if read collectively with Section 415, wherein inducement for wrongful gains with an intention to deceive somebody are not made out, since there is no incriminating material is available with the prosecution to connect the petitioner with the commissioning of offence, as has been argued by counsel for the petitioner as well.

Considering the aforesaid discussions made hereinabove, the petitioner is directed to be released on interim bail in case he joins the investigation on furnishing personal surety/security bonds to the satisfaction of Arresting Officer/Investigating Officer. The petitioner will also come present as and when called for and cooperate in investigation and shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

Adjourned to 18.08.2023.”

(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 Inspector Sandeep Singh, submits that petitioner duly joined the investigation and as on today, his custodial interrogation is not required.

- (6) Learned Counsel for the complainant vehemently opposed the prayer on the premise that recovery of the alleged amount is yet to be effected. However, keeping in view the fact that petitioner has joined the investigation and State does not require his custodial interrogation, therefore, the objection in this regard is rejected.
- (7) In view of the above, interim order dated 02.06.2023 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.
- (11) Pending application(s), if any, shall also stand disposed off.

November 15th, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>