

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-32642-2022

Date of Decision:- 14.02.2023

GURMEET KAUR

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CRM-M-1321-2023

RAJINDER SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Judgepreet Singh Warring, Advocate
for the petitioner in CRM-M-32642-2022.

Mr. G.S. Brar, Advocate
for the petitioner in CRM-M-1321-2023.

Mr. Shubham Kaushik, Asstt. A.G., Punjab.

Mr. Rakesh Gupta, Advocate
for the complainant in CRM-M-32642-2022.

JASJIT SINGH BEDI, J.

This order shall dispose of two petitions bearing No.CRM-M-32642-2022 titled as Gurmeet Kaur Versus State of Punjab and CRM-M-1321-2023 titled as Rajinder Singh Versus State of Punjab. For the sake of convenience, the facts are being taken from CRM-M-32642-2022 as both these petitions are arising out of the same FIR.

2. The prayer these petitions under Section 438 of Cr.P.C. is for the grant of anticipatory bail to the petitioners in case FIR No.0058 dated 19.04.2022 (Annexure P-1) registered under Sections 420, 465,

467, 468, 471, 120-B IPC, 1860 at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

3. The brief facts of the case are that the FIR in question was registered against three accused namely (1) Gurmeet Kaur (petitioner in CRM-M-32642-2022) wife of Bohar Singh (2) Rajinder Singh (CRM-M-1321-2023), MGNREGA Mate and (3) Charanjit Singh, Gram Rozgar Sewak on the basis of letter No.1745 dated 08.02.2022 of the District Social Audit Coordinator, Sri Muktsar Sahib. The first allegation is that the petitioners along with Charanjit, Jaspal Singh and Sukhdev Singh received a total amount of Rs.1,16,206/- in their accounts out of the funds received under the MGNREGA scheme. The second allegation pertains to as many as 13 accused who received amounts in the their bank accounts but had never worked under the MGNREGA scheme. After a detailed inquiry on the allegations, it was found that the petitioners along with their co-accused Charanjit Singh after hatching a criminal conspiracy had forged official record and cheated the Government of an amount of Rs.18,75,893/-.

4. During the investigation, the names of thirteen persons i.e. (1) Satwinder Singh son of Harmeet Singh (2) Parvir Kaur @ Parveen Kaur wife of Satwinder Singh (3) Gurjeet Singh son of Wazir Singh (4) Jassandeep Singh son of Harmeet Singh (5) Ramandeep Singh son of Karnail Singh (6) Raj Kamal son of Gurdeep Singh (7) Sukhdev Singh son of Balvir Singh (8) Ajay Kumar son of Budh Ram (9) Jagmeet Singh son of Amarjeet Singh (10) Amanpreet Kaur wife of Jagmeet Singh (11)

Harpreet Kaur daughter of Daleep Singh (12) Jaspal Singh son of Sher Singh and (13) Bohar Singh son of Jaspal Singh were nominated in the FIR in question. There are now sixteen accused in the FIR in question.

5. The Sr. Superintendent of Police, Sri Muktsar Sahib vide order dated 26.04.2022 constituted a Special Investigation Team consisting of Sh. Mohan Lal, PPS, S.P. (D), Sri Muktsar Sahib (Incharge), Sh. Amarjeet Singh, PPS, D.S.P., Sub-Division, Sri Muktsar Sahib (Member), Sh. Manavjeet Singh, PPS, D.S.P. (CAW & C), Sri Muktsar Sahib and Inspector Jasvir Singh, S.H.O. Police Station Sadar Sri Muktsar Sahib (Member) to investigate the matter. Later on, the S.S.P., Sri Muktsar Sahib vide order dated 16.07.2022 constituted the Special Investigation Team consisting of S.P. (D), Sri Muktsar Sahib (Incharge), D.S.P., Sub-Division), Sri Muktsar Sahib (member), D.S.P. (CAW&C), Sri Muktsar Sahib (Member) and S.H.O., P.S. Sadar, Sri Muktsar Sahib (Member) to investigate the matter.

6. During the investigation conducted by the S.I.T. so far, incriminating evidence has come on file against all the accused including the petitioners. The facts of the investigation are as under:-

At the relevant time, the petitioner-accused Gurmeet Kaur (CRM-M-32642-2022) was the Sarpanch of the Village Balamgarh. The accused/petitioner Rajinder Singh (CRM-M-1321-2023) working as MGNREGA Mate and the accused Charanjit Singh was working as Gram Rozgar Sewak in the MGNREGA Scheme under BDPO, Sri

Muktsar Sahib. The remaining thirteen accused received the amounts in their bank accounts but they never worked in the MGNREGA Scheme.

The petitioner-Rajinder Singh (CRM-M-1321-2023) who was working as MGNREGA Mate was responsible for marking attendance of the beneficiaries. The muster roll has been signed by him. The accused Charanjit Singh, Gram Rozgar Sewak was responsible for maintaining the record relating to the work done by the beneficiaries and making payment to the beneficiaries by transferring/crediting the amounts to the bank accounts of the beneficiaries.

The petitioner-accused Gurmeet Kaur (CRM-M-32642-2022) being Sarpanch of the Village Balamgarh at the relevant time was responsible to ensure the proper utilization of the amount released by the Government under the MGNREGA Scheme and the muster roll is also signed by her as well.

The accused-petitioners with their co-accused by forging the record pertaining to the payment under the MGNREGA Scheme relating to the period of 2019 to 2021, misappropriated a sum of Rs.18,75,893/- (released by the Government for making payment to the beneficiaries of MGNREGA Scheme) and thus cheated the Government.

During the investigation, it has been found that a total amount of Rs.18,75,893/- was transferred in the bank accounts of the following accused who are relatives/friends/associates of the accused/petitioner Gurmeet Kaur (CRM-M-32642-2022), Rajinder

Singh (CRM-M-1321-2023) and Charanjit Singh as per detail given below:-

(a) Rs.25,065/- in the bank account No.35020102793 of the accused Satwinder Singh, Job Card No.559 with SBI.

(b) Rs.23,588/- in the bank account No.35302589005 of the accused Ramandeep Singh, Job No.562 with SBI.

Rs.23,588/- in the bank account No.1762121014814 of the accused Ramandeep Singh, Job No.565 with SBI.

(c) Rs.2892/- in the bank account No.38530610818 of the accused Jassandeep Singh, Job Card No.605 with SBI.

(d) Rs.23,345/- in the bank account No.55152662973 of the accused Gurdeep Singh, Job Card No.961 with SBI.

(e) Rs.23,588/- in the bank account No.1762413000684 of the accused Gurjeet Singh, Job Card No.564 with OBC.

Rs.23,588/- in the bank account No.918010017736468 of the accused Gurjeet Singh, Job Card No.564 with OBC.

(f) Rs.3,856/- in the bank account No.50200021214023 of the accused Jaspal and Bohar Singh, Job Card No.474 with HDFC Bank.

(g) Rs.24,065/- in the bank account No.918010085649470 of the accused Ajay Kumar, Job Card No.560 with AXIS bank.

(h) Rs.24,065/- in the bank account No.1234000100088939 of the accused Amanpreet Kaur, Job Card No.557 with PNB Bank.

(i) Rs.2,651/- in the bank account No.3441000100067550 of the accused Parvir Kaur @ Pareen Kaur, Job Card No.653 with PNB.

Rs.24,065/- in the bank account No.3441000100067550 of the accused Parvir Kaur @ Pareen Kaur, Job Card No.558 with PNB.

(j) Rs.32,660/- in the bank account No.50100307347853 of the petitioner-Rajinder Singh, Job Card No.652 with HDFC Bank.

(k) Rs.18,773/- in the bank account No.11447015565 of the accused Jaspal Singh, Job Card No.581 with SBI.

(l) Rs.16,808/- in the bank account No.11389730352 of Sukhdev Singh son of Bachan Singh, Job Card No.481 with SBI.

(m) Rs.24,916/- in the bank account No.36067310117 of the petitioner-Gurmeet Kaur, Job Card No.580 with SBI.

(n) Rs.23,588/- in the bank account No.016992453000301 of the accused Sukhdev Singh son of Balvir Singh, Job Card No.567 with BOI Rs.23,588/- in the bank account No.633010110006212 of the accused Sukhdev Singh son of Balvir Singh, Job Card No.566 with BOI.

During the investigation, it has been found that the amount of Rs.18,75,893/- (which has been misappropriated by the accused by transferring the same to the bank accounts of the family members/relatives/associates of the accused/petitioner Gurmeet Kaur (CRM-M-32642-2022), accused/petitioner Rajinder Singh (CRM-M-1321-2023) and Charanjit Singh who never worked under the MGNREGA Scheme under the relevant period and their names with amount (shown to have been paid to them) were maintained in the computer record, as under:-

(1) Job Card No.646 Mangat Ram resident of Village Balamgarh.

(2) Job Card No.641 Lal Chand resident of Village Balamgarh.

(3) Job Card No.645 Kulwant Singh resident of Village Balamgarh.

(4) Job Card No.638 Balkaran Singh resident of Village Balamgarh.

(5) Job Card No.635 Puran resident of Village Balamgarh.

(6) Job Card No.639 D.C. Singh resident of Village Balamgarh.

(7) Job Card No.640 Gurpreet Singh resident of Village Balamgarh.

(8) Job Card No.642 Roshan Singh resident of Village Balamgarh.

(9) Job Card No.643 Suba Singh resident of Village Balamgarh.

(10) Job Card No.644 Ram Sewak resident of Village Balamgarh.

7. The petitioners/accused prepared forged job cards and attached the bank accounts of the above said thirteen accused with the same and got the amount transferred into their bank accounts by showing them as beneficiaries in the computer record and thereafter, received the amounts by withdrawing the amounts from the bank accounts directly and through ATM etc. The petitioners and co-accused misappropriated the entire amount and thus cheated the Government.

8. The learned counsel for petitioner-Gurmeet Kaur (CRM-M-32642-2022) contends that the allegations against her are completely baseless. A sum of Rs.24,916/- had come into her account which she had

refunded back into the MGNREGA account. A departmental inquiry had been initiated against her. In the said departmental inquiry, she had been exonerated vide Annexure P-10 as the amount received by her had been re-deposited in the AXIS Bank, MGNREGA. Since she had been exonerated in the departmental inquiry, the FIR registered at the instance of the Department itself was unsustainable. Be that as it may, the petitioner was entitled to the grant of anticipatory bail as no case for custodial interrogation was made out. Even otherwise, the allegations primarily were against Charanjit Singh (non-petitioner). He thus, contends that the petitioner be granted the concession of anticipatory bail.

9. The learned counsel for the petitioner-Rajinder Singh (CRM-M-1321-2023) contends that he has already refunded an amount of Rs.32,660/- wrongly credited into his account. The said mistake had been committed by the Gram Sewak or Computer Clerk, MGNREGA. Once the said amount had been refunded back, the petitioner could not be said to have committed any offence and in any case was entitled to the concession of anticipatory bail, moreso, when there was no document or resolution of the appointment of the petitioner as a Mate in MGNREGA. Even otherwise, no case for custodial interrogation was made out.

10. On the other hand, the learned State counsel contends that the arguments raised by the petitioners are completely fallacious. In fact, there are two separate allegations. As per the FIR, the first allegations

pertains to the petitioner-Gurmeet Kaur (CRM-M-32642-2022) receiving amount of Rs.24,916/- in her account from the MGNREGA account whereas the petitioner-Rajinder Singh (CRM-M-1321-2023) receiving an amount of Rs.32,660/- into his account from the MGNREGA Account. The second allegation pertains to a forged muster-roll maintained by Charanjit Singh which is counter-signed by the petitioners. The said muster roll shows that thirteen accused persons received amounts in their bank accounts but had never worked in the MGNREGA Scheme. Therefore, the petitioners having signed the muster-roll showing the said thirteen persons to be working under the Scheme committed the offence in question knowing fully well that the said persons had never been employed under the Scheme. He contends that as against the first allegation of receiving money in their accounts, is concerned the said amounts stands refunded by both the accused. It was in this situation that the petitioner-Gurmeet Kaur (CRM-M-32642-2022) was exonerated in the departmental inquiry. The departmental inquiry did not in any manner consider the second allegation levelled of thirteen persons wrongly been shown as MGNREGA employees and receiving money. He thus, contends that mere exoneration in the departmental inquiry would not in any manner lead to the exoneration of the petitioner-Gurmeet Kaur (CRM-M-32642-2022).

As regards the petitioner-Rajinder Singh (CRM-M-32642-2022), he contends that the allegations are clearly established. He along with the petitioner-Gurmeet Kaur had counter-signed the muster-rolls,

whereby thirteen persons had received money in their accounts who had never worked under the MGNREGA Scheme. The said amounts were then withdrawn and taken by the petitioners. The serious nature of the allegations did not entitle the petitioners to the grant of anticipatory bail. Even otherwise, the custodial interrogation of the petitioners was required to find out the *modus operandi* of the whole operation and the manner in which the crime was committed. He thus, contends that the petitioners did not deserves the concession of anticipatory bail and petitions ought to be dismissed.

11. The learned counsel for the complainant in the case of petitioner-Gurmeet Kaur (CRM-M-32642-2022) contends that the offences are well-established. The nature of allegations levelled against the petitioner-Gurmeet Kaur did not entitle her to the grant of anticipatory bail.

12. I have heard the learned counsel for the parties.

13. A perusal of the FIR would reveal two specific allegations. Firstly, five accused persons including the petitioners received a total amount of Rs.116,206/- from the MGNREGA Account into their personal accounts. Undoubtedly, the petitioners have refunded their share being Rs.24,196/- and Rs.32,660/- respectively back into the MGNREGA account. This has led to the exoneration of the petitioner-Gurmeet Kaur (CRM-M-32642-2022) in the departmental inquiry. However, as regards the second allegation of thirteen persons wrongly been shown to be working under the MGNREGA Scheme and the

muster-roll being maintained by Charanjit Singh, Gram Rozgar Sewak counter-signed by the petitioners, there is absolutely no plausible explanation coming forth. In fact, the police investigation has clearly revealed that thirteen persons as detailed hereinabove received amounts in their bank accounts but had never worked in the MGNREGA Scheme. The muster-roll was signed by both the petitioners. Forged job cards were prepared. The said job cards were attached to the bank accounts of the thirteen accused persons who received money in their accounts. The said amount was thereafter, withdrawn and handed over to the petitioners and their co-accused. Interestingly, despite having received notices under Section 41 Cr.P.C. to join investigation, none of the thirteen accused persons shown to be working under the MGNREGA scheme had joined investigation which is an indicator as to their culpability as also that of the petitioners.

14. The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr.*** 2022 Live Law (SC) 870 held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent

No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. **In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment.***

Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

15. In view of the aforementioned discussion, firstly, the allegations are *prima facie* established and therefore, the petitioners are not entitled to the grant of anticipatory bail.

Secondly, for proper investigation, the custodial interrogation of the petitioners is otherwise necessary in the present case to take the investigation to the logical conclusion.

16. In view of the above, I find no merit in the present petitions and therefore, the same are hereby dismissed.

17. However, it is made clear that the observations in this order are only for the purposes of deciding those bail application and the Trial Court is free to adjudicate upon the matter in accordance with law.

(JASJIT SINGH BEDI)
JUDGE

14.02.2023
JITESH