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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32469-2023(O&M)
Date of decision : July 17, 2023

Virender Singh

...... Petitioner

Versus

State of Haryana ...... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

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Present :-Mr. Vinod Ghai, Senior Advocate with
Mr. Arnav Ghai, Advocate
for the petitioner.

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PANKAJ JAIN, J. (ORAL)

1. This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No. 269 dated 31.12.2022 for offences punishable under Sections 420, 467,468,471 and120-B IPC, 1860 (Section 409 IPC was added later) registered at Police Station Rozka Meo District Nuh.

As per the FIR it has been alleged as under:-

"First Information Contents:- To the S.H.O. Police Station Rozka Meo District Nuh Sir, a secret information was received that the term of the Panchayat of Kaliyaka Village in District Nuh ended in February 2021 and thereafter the powers of the Gram Panchayat were given to the administrative officers of the Panchayat Department. A proposal was made by the administrative officers of the Panchayat Department in Kaliyaka Village, keeping in mind the public interest, to fill the road from Mr. Maniram's file in Kaliyaka Village to the committee office in Indri with soil and to lay a W.B.road under the MANREGA scheme. The work was carried out by using machines instead of being done under the MANREGA scheme by the administrative officers of the Panchayat Department, and fake bank accounts of MANREGA workers were opened to withdraw their wages. This has tarnished the image of the state government and also resulted in misuse of government funds. On

investigation of the above case, it was found that while taking action on the proposal put forward by the administrative officers of Panchayat Department of village Kaliyaka, soil filling and W.B.M. work was done under the MANREGA scheme as per the documents. The expenditure shown is of Rs. 3,67,920/- for MANREGA wages and Rs. 5,14,037/- for road construction material and other expenditure making a total expenditure of Rs. 8,81,960/- on this work. As per MANREGA muster roll Number 1110, this work has been done by 73 MANREGA workers from 11.10.2021 to 26.10.2021. The wages of MANREGA workers, working according to the above muster roll have been paid directly into their bank accounts During the spot inspection of this work, some villagers of Kaliyaka village who were present on the spot, told that this work was done by J.C.B. machines and not by MANREGA workers. During investigation as per the muster roll number 1110 of the above work was got done from 73 MANREGA workers under the MANREGA scheme from dated 11.10.2021 to 26.10.2021. out of these 73 MANREGA workers, the wages sent to the bank account of 20 MANREGA workers became invalid due to technical reasons. On checking the bank accounts of all MANREGA workers, it was found that out of these 51 bank accounts are in The Gurugram Central Co- Operative Bank, Punhana, 15 bank accounts in Sarva Haryana Gramin Bank, Indri, 1 account in Punjab National Bank Mandkola, 1 account in Bank of Commerce, Nagina, 1 account in Bank of Commerce, Sector-32, Gurugram, 2 accounts in I.D.B.I. Bank in village Syarauli, 1 account in Andhra Bank Sector-69, Gurugram and 1 account S.B.I. Rozka Meo are opened. During the investigation, name addresses and application forms etc. of the account holders of 51 bank accounts opened in The Gurgaon Central Co-operative Bank Punhana were scrutinized. Out of the above account holders, 6 person (Bhupendra Singh s/ob Mansingh, Pohab Singh s/o Giriraj Singh, Mkesh s/o Munshiram, Sanjay s/o Jagbir Naresh Kumar husband of MANREGA labourer late Smt Manju, Smt. Santosh Paliwal wife of Kishandatt all residents of village indri) were joined in the investigation and the documents related to their bank accounts were shown to them. These persons *after observing the bank related documents, told in their statements that they have neither opened any account in bank in punhana nor have got made any MANREGA job card till date. During investigation it was found that the bank accounts of above named persons opened on 11.08.2021 in the gurugram central Co-operative bank Ltd., which were introduced by a man namely Sajid s/o Aas Mohammad residents of village Jalalpur District Nuh, whose account number 001834001101289 is opeded in the same bank. At that time Mohammad Hanif son of Mr. Suleman was posted as cashier and Mr. Mubeen khan as branch manager. On investigation, it was that the above work was done by the administrative officers of the Panchayat Departments with machines instead of getting it done under the MANREGA scheme and it has been shown in the documents to be done under the MANREGA scheme. The job cards of MANREGA workers shown in this work have been fraudulently made online and fake bank account have been opened in their names and MANREGA wages have been withdrawn. So far, on the basis of investigation and documents, Sajid s/o Aas Mohammad resident of village Jalalpur, Mohammad Hanif s/o Mr. Suleman Cashier and Mr. Mubeen khan branch manager of the Gurugram central Co-operative bank, Punhana has been found in opening fake bank accounts and Mr. Sunder Singh, Panchayat Secretary, village Kaliyaka, Mr Pawan kumar, Assistant Accountant and Mr. Virendra Singh, the then Block Development and Panchayat Officer, Indri District Nuh, have been found involved in crediting wages to the accounts of fake account holders by showing them under the MANREGA scheme. As per the documents of the above work, daily attendance of all MANREGA Mates, which has been verified by Mr. Sundar Singh, village secretary, Indri. But on investigation it was found that the muster roll number 1110 has the signature of Mr. Sahi Ram MANREGA Mate but Panchayat Secretary Sundar Singh has been refused to verify these signatures, which prima facie appears to be fake. On the basis of MANREGA muster roll number 1110, the attendance of all MANREGA labourers was done online by Mr. Pawan kumar, Assistant Accountant, Officer of block Development and Panchayat* *office and after completing all the formalities wages amount was deposited in the account of MANREGA labourers by Mr. Virendra Singh, then BDPO, Indri, On investigation, this work was found to be done with machine by the administrative officers of the Panchayat Department, which has been shown in the documents to be done under the MANREGA scheme. In this work, the job cards of almost all MANREGA workers have been fraudulently made online in the month of March 2021 and MANREGA wages have been withdrawn by opening fake bank accounts in their names. Based on the investigation and documents examined so far, it has been found that Sajid son of Aas Mohammad, resident of Jalalpur village, Mohammad hanif son of Sh. Suleman, Cashier and Shri Mubeen Khan, Branch Manager of the Gurugram Central Co- operative Bank, Punhana were involved in opening fake bank accounts. Sunder Singh, Panchayat Secretary of Kaliyaka Village, Pawan Kumar, assistant accountant, and Virendra Singh, former Block Development and Panchayat Officer of Indri District played role in showing that the work was done by using the machines. They have committed offences under Sections 420/467/468/471/120B of the Indian Penal Code (IPC), and it is expected that a thorough investigation be carried out against them. During the investigation, the involvement of other individuals and officials from the Panchayat department may also come to light.*

Sd/- Satbir Singh XXXXX XX."

2. Learned Senior counsel representing the petitioner has relied upon the orders passed by a Co-ordinate Bench of this Court in **CRM-M-2672-2023 dated 25.5.2023 and CRM-M-31548-2023 dated 4.7.2023** to submit that there are two more FIRs involving similar allegations against the petitioner in which the petitioner has been granted indulgence by way of interim protection. He further submits that the petitioner was merely acting in supervisory capacity. The muster rolls showing the engagement of the workers for the purpose of MANREGA was signed by his mate and verified by the Panchayat Secretary. Thereafter the petitioner was required only to release the funds. He further submits that custodial interrogation of the petitioner is not required as the offence involves documentary evidence.

3. I have heard learned counsel for the parties and have gone through the record of the case.

4. It is a classic case wherein the administrative reforms are being defeated by inventing new methods. The crime has travelled upto the door of the petitioner in view of the fact that the funds were released by none else but the petitioner.

5. As per settled law petitioner is required to make out a case for invoking jurisdiction under Section 438 Cr.P.C. In **Gurbaksh Singh Sibbia's case (supra)**, Apex Court has held that :-

> *"..That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail....*

6. Likewise while reiterating the law laid down in ***Gurbaksh Singh Sibbia's case (supra)*** *Apex Court in* ***Sushila Aggarwal and others Vs. State (NCT of Delhi) and another, 2020 (5) SCC 1*** *held that:-*

"(4) Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. "

Further Supreme Court in the case of **Sumitha Pradeep Vs. Arun Kumar C.K. and another 2022 (4) RCR Criminal) 977** held as under:

> ***"****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."*

7. As per settled law **(in C.B.I vs. Anil Sharma, 1997(7) 187)** there is a qualitative difference between custodial interrogation and questioning a person insulated by pre-arrest bail. Investigation at this nascent stage cannot be belayed.

8. The nature and the seriousness of the allegations levelled gainst the petitioner and his conduct are the relevant factors for the adjudication of the present petition.

9. In view of the aforesaid circumstances, this does not appear to be a fit case to grant discretionary relief of anticipatory bail to the petitioner. Consequently, the same is dismissed.

10. Needless to say nothing recorded hereinabove should be construed as expression on merits of the case

(PANKAJ JAIN)
JUDGE

July 17, 2023
archana

Whether speaking/reasoned Yes
Whether Reportable : No