

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

CRM-M-36431-2022 (O&M)
Date of Decision:-19.1.2023

Deepak Makkar ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Tanvir Singh Grewal, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana,
assisted by Sub Inspector Kaptan Singh.

GURVINDER SINGH GILL, J. (Oral)

CRM-29512-2022

In view of the reasons mentioned in the application, the same is
allowed as prayed for.

CRM-M-36431-2022 (Main Case)

1. The petitioner seeks grant of regular bail in respect of a case registered vide FIR No.346, dated 22.11.2021 at Police Station Ram Nagar, Karnal, District Karnal, Haryana, under Section 409 of Indian Penal Code and Section 13 of Prevention of Corruption Act, 1988 (Amendment Act, 2018).
2. The allegations against the petitioner are that he was posted as Head Cashier at OP Sub-Division Ramnagar, Uttar Haryana Bijli Vitran Nigam (UHBVN),

Karnal, wherein he had been assigned the duty of accepting cash towards payments of electricity bills. It is specifically alleged that he had misappropriated an amount of Rs.34,67,795/-, which he had received over a period of about 3 years w.e.f. September 2018 to April 2021 and that while he had made entries in the relevant record but had physically not deposited the said amount with UHBVN and, as such, had misappropriated the same.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and had been made a scapegoat inasmuch the said entries are required to be checked everyday by the Sub Divisional Officer (SDO) concerned and that in case there had been any such irregularity as alleged, it would not have escaped the notice of senior officers for over a long period of 3 years. Learned counsel has further submitted that the petitioner, in any case, in order to prove his *bonafides* is willing to deposit an amount of Rs.5 lakhs before the Trial Court.
4. Opposing the petition, learned State counsel has submitted that having regard to the fact that the petitioner was assigned the duty of collecting cash from the electricity consumers and to maintain record, which was solely his responsibility and which has been found to be fudged and a loss of Rs.34,67,795/- had been caused, the complicity of the petitioner is clearly evident. It has further been submitted that the petitioner while being posted as Head Cashier in the office of SDO, Electricity, Model Town, Karnal had also committed a similar offence but upon being caught, he had deposited the amount. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 10 months and is otherwise is not involved in any other case. It has also been informed that as on date 1 PW out of the cited 30 PWs has been examined.

5. This Court has considered the rival submissions.
6. Without commenting anything as regards the merits of the case, but having regard to the custody of the petitioner, which is about 10 months and also the fact that the petitioner otherwise enjoys a clean record and that conclusion of trial is likely to take some time inasmuch as only 1 PW out of the cited 30 PWs has been examined so far, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
7. The aforesaid directions shall, however, be subject to the condition that the petitioner, as per his offer, shall deposit an amount of Rs.5 lakhs before the Trial Court within a period of 2 months from today. Upon deposit of such amount, the Trial Court shall get the same invested in some FDR with some Nationalized Bank with a specific direction to Manager of the bank concerned not to entertain any request for encashment of the same except under orders of the Court. Upon the petitioner being declared innocent or being acquitted and such acquittal attains finality, the petitioner shall be entitled to proceeds of the said FDR. However, in case the petitioner is found guilty and is convicted and such conviction attains finality, the complainant i.e. U.H.B.V.N. shall be entitled to proceeds of the FDR in question.
8. It is further made clear that deposit of the aforesaid amount shall be without prejudiced to the defence of the petitioner and shall not be construed to be any kind of admission on his part.

19.1.2023

pankaj

Whether speaking /reasoned
Whether Reportable

(Gurvinder Singh Gill)
Judge

Yes / No
Yes / No