IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-36501 of 2022
Reserved on: - 02.03.2023
Pronounced on: - 13.03.2023

Mandeep Kaur

......Petitioner

Versus

State of Punjab and another

......Respondents

CRM-M- 46225 of 2022

Mandeep Singh

......Petitioner

Versus

State of Punjab and another

......Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Mr. Mohd. Yousaf, Advocate, for the petitioner(s).

Mr. Adhiraj Singh, AAG, Punjab.

Mr. Paul S. Saini, Advocate, and
Ms. Komaljit Kaur, Advocate, for respondent No.2.

NAMIT KUMAR, J.

This order shall dispose of aforementioned two petitions as both have been filed under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.111 dated 21.07.2022 under Sections 406, 409, 120-B IPC, registered at Police Station Mukerian, District Hoshiarpur.

For the sake of brevity, facts are culled out from CRM-M-36501 of 2022.

Brief facts of the case are that Sunil Tuli, Senior Divisional Manager, National Insurance Company Limited, Branch Mukerian moved an application against Mandeep Singh (petitioner in CRM-M-46225 of 2022), Jyoti Sharma, Mandeep Kaur (petitioner in CRM-M-36501 of 2022), Manjit Singh and Maninder Singh regarding embezzlement of Government funds. It has been alleged in the said application that petitioner-Mandeep Singh son of Gurcharan Singh resident of House No. 1/104 Guru Ravidass Nagar, Maqsudan Distt. Jalandhar was working as Assistant in the office of National Insurance Company Limited, Branch Mukerian since 25.12.2013. He was assigned duty of processing the claims on computer. Som Raj, Branch Manager brought into the notice of Sunil Tuli Senior Divisional Manager regarding embezzlement in the account of the company and during inquiry it was found that petitioner-Mandeep Singh has committed embezzlement to the tune of Rs. 75,34,803/-. Even the receipts deposited by petitioner-Mandeep Singh were found to be fake. Therefore, the FIR was came to be registered.

Petitioner-Mandeep Kaur filed application before the Court of learned Additional Sessions Judge, Hoshiarpur, for grant of anticipatory bail, which was dismissed vide orders dated 08.08.2022. Aggrieved against the said order, petitioner has filed instant petition bearing CRM-M-36501 of 2022 seeking anticipatory bail, which came up for hearing before this Court on 18.08.2022 and following order was passed: -

> *"This petition has been filed by the petitioner under Section 438 Cr.P.C., seeking anticipatory bail in FIR No.111 dated 21.07.2022, under Sections 406, 409 and 120-B IPC, registered at Police Station Mukerian, District Hoshiarpur.*
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> ***Counsel for the petitioner contends that a sum of Rs.15,08,000/- has been deposited in cash by the husband of the petitioner – Mandeep Singh, who is the main accused, with the National Insurance Company Limited, Mukerian Branch. He has further referred to the receipts Annexure P-2.***
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> *Notice of motion for 02.11.2022.*
>
> *Mr. Ramandeep Sandhu, Senior DAG, Punjab puts in appearance and accepts notice on behalf of the respondent no.1-State. Copy of the paper book be supplied to him during the course of the day.*
>
> *On oral request of learned counsel for the petitioner, complainant, namely, the National Insurance Company Limited, Mukerian Branch is impleaded as respondent No.2.*
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> *Office to carry out necessary correction in the `Memo of Parties'.*
>
> *Let notice be issued to the newly impleaded respondent no.2 for 02.11.2022.*
>
> *The learned State counsel to file the status report in this case on the next date of hearing.*
>
> *Respondent no.2 is also directed to file their response, particularly with regard to the contentions raised by the counsel for the petitioner, as recorded above.*
>
> *In the meantime, arrest of the petitioner shall remain stayed. However, the petitioner shall join investigation before the Investigating Agency/Officer as and when called upon to do so.*
>
> ***However, if the contentions of the counsel for the petitioner are found to be incorrect, the petition shall be dismissed with exemplary costs.**"*

Thereafter, petitioner-Mandeep Singh (husband of petitioner Mandeep Kaur) filed CRM-M-46225 of 2022 seeking anticipatory bail in the present FIR, in which notice of motion was issued on 06.01.2023.

Status report on behalf of the State and short reply on behalf of respondent No.2-Insurance Company have been filed, which are already on record. Relevant portion of the short reply filed on behalf of respondent No.2-Insurance Company reads as under: -

> *"4. That the brief facts of the case which led to the registration of FIR No.0111 dated 21.07.2022 under Section 406, 409, 120-B of IPC at Police Station Mukerian, against the petitioner Mandeep Kaur alongwith co-accused Mandeep Singh (husband), Jyoti Sharma, Manjit Singh and Maninder Singh are detailed hereunder:-*
>
> *a. Mandeep Singh son of Gurcharan Singh, i.e. the husband of the petitioner was appointed as Assistant in the respondent Insurance Company, vide letter dated. 30.11.2013 and was posted in the Branch Office at Mukerian w.e.f. 27.12.2013 where he was assigned the work of processing of claims on the computer, pertaining to damage/loss to insured vehicles.*
>
> *b. On 30.03.2020, Som Raj, Branch Manager, Mukerian Branch Office, National Insurance Company Ltd. brought to the notice of Sunil Tuli, Senior Divisional Manager, Divisional Office, National Insurance Company Ltd. Pathankot that a fraud has been committed with the accounts of the respondent insurance company at Mukerian Branch Office.*
>
> *c. Upon receipt of the aforesaid information, a fact finding inquiry was conducted by an inquiry committee constituted*

by of the respondent insurance company, ***Upon thorough investigation into the matter conducted by the said inquiry committee, it was revealed that a huge amount of Rs.75,34,803/- was transferred from Account No.031-248396-908 of the respondent insurance company with HSBC Bank, by Mandeep Singh fraudulently by misusing his ID, into various bank accounts detailed hereunder:-***

i. An amount of Rs.13,34,710/- transferred into Account No.33840661368 of SBI, Purana Railway Road Branch, Jalandhar, of ***Jyoti Sharma*** *w/o Sumir Sharma, resident of 283-B, Adda Hoshiarpur Road, Lakshmipura, Jalandhar, during the period from 07.12.2018 to 16.09.2019.*

ii. An amount of Rs.3,50,000/- transferred into Account No.640110110005989 of Bank of India, Mai Hiran Gate Branch, Jalandhar, of ***Jyoti Sharma*** *w/o Sumir Sharma, resident of 283-B, Adda Hoshiarpur Road, Lakshmipura, Jalandhar, during the period from 11.06.2019 to 21.08.2019.*

iii. An amount of Rs.15,08,015/- transferred into account No.3920001500021694 of PNB, KMV College Branch, Jalandhar, of ***Mandeep Kaur wife of Mandeep Singh****, resident of House No.1/104, Maqsoodan, Jalandhar, during the period from 17.05.2017 to 20.03.2020.*

iv. An amount of Rs.27,45,028/- transferred into joint account No.916010028013032 of Axis Bank, Branch Mukerian, of ***Mandeep Singh and Manjit Singh*** *s/o Sh. Atma Singh, resident of Mehak Motor near Kali Mata Mandir, Talwara, during the period from 17.05.2017 to 03.01.2019.*

v. An amount of Rs.15,00,000/- transferred into account No.3489000106092936 of PNB, Branch Tanda Road, Beriwal, of ***Maninder Singh*** *s/o Sukhchain Singh, resident* *of House No.1/104, Maqsoodan, Jalandhar **(brother-in-law of Mandeep Singh)** on 19.11.2019.*

*vi. An amount of Rs.97,050/- transferred into account No.37792183237 of SBI Dashmesh Nagar, Mukerian, of **Mandeep Singh** himself.*

d. Thus, it was found during the fact finding inquiry/investigation conducted by the said inquiry committee that Mandeep Singh in connivance with other persons mentioned above in para 4(c) committed embezzlement of a huge amount totaling Rs.75,34,803/- from the bank account of the respondent insurance company.

e. It is pertinent to mention that during the fact finding inquiry/investigation, respondent party produced copies of some receipts of different dates allegedly showing deposit of some cash amount with the respondent insurance company. However, upon investigation, it was revealed that all the receipts of different dates were having the same common receipt number i.e. Receipt No.401506/ MKN/19. Mandeep Singh produced a copy of receipt No.401506 dated 03.05.2019 showing deposit of an amount of Rs.42,45,000/-. However, on checking the account of Mandeep Singh, it was found that only a sum of Rs.1,23,500/- was withdrawn from his bank account during the period from 27.05.2017 to 11.04.2020.

f. Mandeep Singh also produced a receipt No.401506 dated 06.01.2020 showing deposit of an amount of Rs.15,00,000/- by Maninder Singh (his brother-in-law) with the respondent insurance company. However, on checking the record, no entry of withdrawal of any amount from the bank account of Maninder Singh during the period from 29.11.2019 to 06.01.2020 was found.

g. Mandeep Singh also produced four receipts showing deposit of an amount of Rs. 14,09,000/- by his wife

Mandeep Kaur, into the account of the respondent insurance company as detailed hereunder:-

i. receipt No.401506/MKN/19 dated 27.04.2019 Rs.3,10,000

ii. receipt No. 401506/MKN/19 dated 21.06.2019 Rs.4,30,000

iii. receipt No. 401506/MKN/19 dated 11.10.2019 Rs.2,69,000

iv. receipt No. 401506/MKN/19 dated 30.12.2019 Rs.4,00,000

However, on checking the account of Mandeep Kaur, it was found that only a sum of Rs. 1,16,000 was withdrawn from her bank account during the period from 17.05.2017 to 02.04.2020.

h. It is further submitted that from the perusal of receipt No.401506 dated 22.07.2019 of Rs.13,29,650 and receipt No.401506 dated 31.08.2019 produced by Jyoti Sharma, it was found that only an amount of Rs.5,60,000/- was withdrawn from both the bank accounts of Jyoti Sharma during the period from 11.06.2019 to 31.09.2019.

i. ***The findings of the fact finding inquiry committee revealed that the allegations of fraud and embezzlement of funds of the respondent insurance company to the tune of Rs.75,34,803/- against the petitioner Mandeep Kaur and co-accused Mandeep Singh, Jyoti Sharma, Manjit Singh and Maninder Singh, stood proved.***

j. The inquiry report submitted by the fact finding inquiry committee recommending registration of a case against the accused persons was sent to the Incharge, Economic Offences Wing, Hoshiarpur, who after having got conducted an inquiry into the matter through ASI Jasbir Singh, E.O. Wing, Hoshiarpur, found that Mandeep Singh committed an embezzlement to the tune of Rs.75,34,803/- and that the receipts produced by Mandeep Singh showing *deposit of money detailed in para 4 (g) were also found to be fake. On the basis of said inquiry report, the Incharge, E.O. Wing, Hoshiarpur, recommended for registration of a case under Section 406, 409, 120-B of IPC against the petitioner Mandeep Kaur, Mandeep Singh, Jyoti Sharma, Manjit Singh and Maninder Singh and sent the enquiry report to the Senior Superintendent of Police, Hoshiarpur, for further action, who approved the inquiry report and directed SHO P.S. Mukerian, District Hoshiarpur, to register the case and investigate the matter. This is how the instant FIR against the petitioner alongwith other co-accused persons was registered.*

k. On the basis of the aforesaid inquiry report, Mandeep Singh i.e. the husband of the petitioner was placed under suspension on 22.06.2020 by the respondent insurance company.

l. Subsequently, Mandeep Singh i.e. the husband of the petitioner was charge sheeted by the respondent insurance company, vide memorandum dated 07.06.2022, a copy of which is appended herewith as Annexure 'R-1', for misconduct for having committed the aforesaid fraud and embezzlement of funds of the respondent insurance company.

m. Basis the aforesaid memorandum, a full-fledged departmental/ disciplinary proceedings were conducted against Mandeep Singh, under Rule 25 of the National Insurance Company (Conduct, Discipline and Appeal) Rules, 2014, as amended up to date. Upon conclusion of the said departmental proceedings, the inquiry officer submitted his inquiry report dated 21.10.2022, wherein all the charges leveled against Mandeep Singh have been proved/ established.

*5. **That the contention of the petitioner that a sum of Rs.15,08,000/- has been deposited in cash by the husband*** *of the petitioner - Mandeep Singh, who is the main accused, with the National Insurance Company Limited, Mukerian Branch, is absolutely false, wrong, incorrect and hence vehemently denied. The documents annexed as Annexure P- 2' with the petition relied upon by the petitioner to support her aforesaid contention are also absolutely false, fake, forged and fabricated. It is specifically and categorically asserted that the respondent insurance company never received any amount, whatsoever, in cash or any other mode from the petitioner or any other person and never issued the documents annexed as Annexure 'P-2'.*

6. That it is further respectfully submitted that it appears from the documents annexed as Annexure 'P-2' that these documents have been forged and fabricated by scanning/ copying/ pasting the letter head of the respondent insurance company and by forging the signatures of the Branch Manager from some official documents. It is specifically and categorically asserted that the documents annexed as Annexure 'P-2' have not been issued by the respondent insurance company. It is further asserted that the respondent insurance company never received any such type of amounts in cash on account of claim payments of Hero Two Wheeler dealers either from Mandeep Singh or from any other person. It is further asserted that the respondent insurance company never issued or signed such type of documents to anyone on behalf of the respondent insurance company. The falsehood of the alleged documents/ receipts annexed as Annexure P-2', stands fully established from the fact that the said alleged documents are not in the format prescribed by the respondent insurance company (company's online payment receipt). Above all, there is absolutely no practice in the offices of

the respondent insurance company to issue such type of manual receipts.

7. That the statement made by the petitioner before this Hon'ble Court on 18.08.2022 to the effect that a sum of Rs. 15,08,000/- has been deposited in cash by the husband of the petitioner - Mandeep Singh, with the respondent insurance company, Mukerian Branch, through documents/ receipts Annexure 'P-2', also stands totally falsified from the records of the respondent insurance company especially the Collection Register maintained by Mukerian Branch as well as Collection Receipts issued thereof. *In order to authenticate the aforesaid assertion, an extract copy of the Collection Register alongwith some of the Collection Receipts of the relevant dates (as mentioned in Ann. P-2) i.e. 26.04.2019 (office closed on 27.04.2019 due to a holiday being Saturday), 21.06.2019, 11.10.2019 & 30.12.2019 are appended herewith as Annexure 'R-2', 'R-3', 'R-4' and 'R-5' Colly., respectively. A perusal of Collection Register of all the aforesaid relevant dates clearly shows that the respondent insurance company did not receive any amount, whatsoever, in cash or any other mode from the petitioner or any other person. Consequently, the question of issuance of any collection receipt as alleged by the petitioner does not arise at all.* ***Moreover, a careful examination of the alleged documents / receipts Annexure 'P- 2' and the collection receipts Annexure 'R-2' to 'R-5' actually issued by the respondent insurance company makes it crystal clear that the alleged receipts Annexure 'P-2' are absolutely false, fake, forged and fabricated.***

8. That it is further respectfully submitted that the petitioner has not approached this ***Hon'ble Court with clean hands in as much as the petitioner has tried to***

mislead this Hon'ble court by misrepresentation of facts with an ulterior motive to succeed in the petition which is clearly evident from the motion order dated 18.08.2022 passed by this Hon'ble Court in the instant petition*. Consequently, the present petition deserves to be dismissed with exemplary costs."*

Learned counsel for the petitioner(s) contended that the petitioner is innocent and has been falsely implicated in the present case. She is ready and willing to join the investigation. He further submitted that she is not involved in any other case. No custodial interrogation in the present case is required. Therefore, she may be granted the concession of anticipatory bail.

Per contra, learned counsel for respondent No.1-State and learned counsel for respondent No.2-Insurance Company contended that petitioner-Mandeep Singh, who was working as Assistant in the insurance company and was posted at Mukerian Branch w.e.f. 27.12.2013, was assigned the work of processing of claims on the computer pertaining to damage/loss to insured vehicles, committed fraud with the accounts of insurance company and on inquiry, it was revealed that an amount of Rs.75,34,803/- was fraudulently transferred from the accounts of respondent No.2-Insurance Company with HSBC Bank, by petitioner-Mandeep Singh by misusing his ID into various bank accounts of Jyoti Sharma, his wife Mandeep Kaur (petitioner in CRM-M-36501 of 2022), Mandeep Singh and Manjit Singh (being joint account holders), Maninder Singh (brother-in-law of petitioner-Mandeep Singh) and to his own account. Consequently, FIR in question was registered against petitioners-Mandeep Singh and

Mandeep Kaur (husband and wife), Jyoti Sharma, Manjit Singh and Maninder Singh and since there are specific allegation of embezzlement, they are not entitled for grant of pre-arrest bail as their custodial interrogation is required for recovery of embezzled amount of Rs.75,34,803/-.

I have heard learned counsel for the parties and perused the record.

FIR in the present case has been registered on the allegation that petitioner-Mandeep Singh, who was working as Assistant with the Insurance Company, has embezzled an amount of Rs.75,34,803/- and has transferred the said amount to various accounts of other co-accused, including that of his wife, brother-in-law (Maninder Singh) and his joint account with Manjit Singh. Petitioner-Mandeep Singh was chargesheeted by the National Insurance Company and his placed under suspension w.e.f. 22.06.2020. Notice in the petition filed by petitioner-Mandeep Kaur (CRM-M-36501 of 2022) was issued on 18.08.2022 as her counsel contended that a sum of Rs.15,08,000/- has been deposited by her husband Mandeep Singh (petitioner in CRM-M-46225 of 2022) with respondent No.2-Insurance Company and has attached the receipts as Annexure P-2, however, the said fact has been vehemently denied by respondent No.2-Insurance Company by stating that the said receipts are bogus and no such amount has been received by the Insurance Company. Therefore, it is clear that there is total mis-statement of facts on the part of the petitioner(s) to gain the interim order, as no amount muchless

Rs.15,08,000/- has been deposited by petitioner-Mandeep Singh, husband of petitioner-Mandeep Kaur. Further, in view of the peculiar facts and circumstances of the present case, custodial interrogation of the petitioner(s) would be required for recovering the embezzled amount of Rs.75,34,803/-. There are specific and concrete allegations against the petitioner(s) with regard to embezzlement, Therefore, investigation at this stage cannot be scuttled.

This Court in the case of ***Jai Krishan v. The State of Punjab, 2010(1) R.C.R.(Criminal) 249 (P&H)*** has held that fraud vitiates everything and no person can be beneficiary of his own fraud and the beneficial order secured from the Court by playing fraud being outcome of the fraud has to go.

Petitioner-Mandeep Singh embezzled a huge amount of respondent No.2-Insurance Company by fraudulently transferring the same into the accounts of his relatives, his own account and to that of his wife-Mandeep Kaur (petitioner in CRM-M-36501 of 2022). Thereafter, Mandeep Kaur by giving wrong statement that a sum of Rs.15,08,000/- has been deposited in cash by her husband Mandeep Singh (petitioner in CRM-M-46225 of 2022), she got her arrest stayed vide order dated 18.08.2022. However, respondent No.2-Insurance Company has denied deposit of any such amount by the petitioner. Therefore, by making wrong statement petitioner has played fraud with this Court and the receipts produced in support of such assertion were also found to be bogus. Petitioner being employee of respondent No.2-Insurance Company was duty-bound to perform the work entrusted to him, however, by fraudulently transferring the public money into his own account and the accounts of his relatives, he has committed criminal breach of trust.

The allegations are serious in nature and keeping in view conduct of the petitioner as well as the essential parameters for consideration of bail petition i.e. nature of offence, the punishment thereto, possibility of his tampering with the prosecution evidence in case of his release on bail, likelihood of his fleeing away from the jurisdiction of the Court etc. and in the given circumstance, extraordinary relief available under Section 438 Cr.P.C. cannot be given to the petitioner.

Thus, present petitions are dismissed with a costs of Rs.25,000/-. Petitioner-Mandeep Kaur is directed to deposit the costs of Rs.25,000/- with the Punjab State Legal Services Authority within a period of one month and after depositing the same, he shall produce the receipt within the abovesaid period of one month before the Deputy Commissioner, Hoshiarpur. In case, the petitioner does not deposit the said costs of Rs.25,000/- within the abovesaid stipulated period and does not produce the receipt of the same before the Deputy Commissioner, Hoshiarpur, then the Deputy Commissioner, Hoshiarpur, is directed to proceed against the petitioner for recovery of the said amount of Rs.25,000/- as arrears of land revenue.

A copy of this order be sent to the Punjab State Legal Services Authority, Chandigarh, as well as Deputy Commissioner, Hoshiarpur, for necessary action.

Nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

(NAMIT KUMAR)
JUDGE

13.03.2023
R.S.

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No