

105-5

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

CRM-M-41393-2023 (O&M)**Date of decision : 29.11.2023**

Nirmal Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Imaan Singh Khara, Advocate,
for the petitioner.

Mr. C.L. Pawar, Addl.A.G., Punjab,
assisted by ASI Rajeev.

Mr. Abhinav Sood, Advocate,
for the complainant.

MAHABIR SINGH SINDHU, J.

Petition under Section 438 of the Code of Criminal Procedure, 1973 has been filed for grant of pre-arrest bail to the petitioner in FIR No.126 dated 19.07.2023, under Sections 408, 420, 120-B of the Indian Penal Code, 1860, registered at Police Station Kotwali Bathinda, District Bathinda.

2. Allegations are that petitioner along with other co-accused, being employees of M/s Fun Multiplex Pvt. Ltd. at Mittal Mall, Bathinda, misappropriated/embezzled funds while allowing customers to watch movie shows without tickets.

3. This Court, on 04.09.2023, granted interim bail to petitioner and relevant part of the same reads as under:-

“Learned counsel for petitioners, on instructions, submits that as a matter of fact Sh. Harmanpreet Singh (petitioner in CRM-M-41402-2023) sent e-mails/whatsapp messages to the complainant on 01.06.2023, 04.06.2023 and 05.06.2023, regarding the alleged mismanagement and frauds going on with cinema at the level of senior officials, but instead of taking action against the wrong doers, petitioners have been made scapegoat.

Learned counsel for the complainant as well as learned State counsel are not able to controvert the above contention; nor they have shown any record to that effect.

In view of the above, matter is posted on 18.09.2023 for further consideration.

In the meanwhile, petitioners shall join investigation before the Investigating Officer. In the event of their arrest, the Arresting Officer would admit them to interim bail, till the next date of hearing, on furnishing adequate bail and surety bonds to his satisfaction. The petitioners shall also abide by all the conditions as envisaged under Section 438(2) of Code of Criminal Procedure, 1973.

A photocopy of this order be placed on the connected case(s).”

4. Contends that in terms of the aforesaid order, petitioner has already joined investigation and his custodial interrogation is not required.

5. Above factual position is duly acknowledged by learned State Counsel, on instructions from the police officer present in Court and further stated that custodial interrogation of the petitioner is not required at this stage.

6. Although, learned counsel for the complainant vehemently opposed the prayer of petitioner, but in view of fact that State is not seeking custodial interrogation; therefore, objection raised by learned counsel for the complainant is rejected.
7. In view of above, interim order dated 04.09.2023 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 stand disposed off.

29.11.2023
atulsethi

(MAHABIR SINGH SINDHU)
JUDGE

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