

CRM-M-43855-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43855-2022
Reserved on: 30.01.2023
Pronounced on: 06.02.2023

Rajinder Pal ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vinod Ghai, Sr. Advocate with
Mr. Edward George Masih, Advocate
for the petitioner.

Ms. Shubhra Singh, Addl. AG, Haryana.

Mr. Rakesh Gupta, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
387	22.08.2022	Naraingarh, District Ambala	409 & 120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above, on the allegations of embezzlement and siphoning of crores of rupees from Ambala Central Co-operative Bank, as an Accountant, had come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 17 of the bail petition, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1	136	25.08.2007	420, 409, 467, 468, 471 IPC	Mulana, District Ambala

3. Petitioner’s counsel argued that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. State’s counsel opposes the bail and state that custodial interrogation is required to recover the investors funds and the Bank’s money.

REASONING:

5. On 15.04.2022, members of Managing Committee, The Jeoly PACS Limited, Tehsil Naraingarh, District Ambala, made a written complaint to Chief Minister of Haryana.
- The complainants alleged that Rajinder Pal-the present petitioner, who had since

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retired as a Junior Accountant and remained posted in the bank as Parbandhak, had committed massive embezzlement and fraud on the people's money. They further alleged that despite knowing about petitioner's acts of cheating, the higher officers were sitting over the files because he enjoys good reputation with higher officials who were protecting him. On receipt of this complaint, the Chief Minister of Haryana directed the Deputy Commissioner of Ambala to constitute Special team and took custody of the entire record of the society because it came to their notice earlier also. The petitioner and other employees had destroyed the papers to conceal evidence. After that it came in the inquiry (Annexure P-7) that there was loss of Rs.26 crores approximately and the reason was that the defaulting members are not paying loan on time and the society did not receive waiving interest from the government. The audit of the bank was conducted and vide Annexure P-8 it was revealed that the society did not take any serious action to recover the defaulted amount and interest against one time settlement was also not recovered. The detailed report (Annexure P-9) was also submitted in which it reveals that apart from other irregularities, in-efficiencies, it was found that employees of the society were given over draft loan. Furthermore, in the financial year 2018-19 itself, the difference was found of Rs.14,72,919.54/- in the member loan account and similarly as per audit report of financial year 2020-21, the difference was found of Rs.11,05,845.85/- in member loan accounts and the balance book. Despite this, no departmental inquiry was conducted. The inquiry found involvement of the petitioner in the difference of member loan account to the tune of Rs.25 lacs approximately and further about his involvement in advancing loan to undeserving members, which resulted into defaulters. Apart from losses of the society, there were serious allegations of misappropriation of more than Rs.25 lacs approximately. Based on this, the police registered the FIR captioned above.

6. An analysis of the aforesaid allegations, points out towards the involvement of the petitioner in difference between the loan amount of financial year 2018-19 and 2020-21 in total more than Rs.25 lacs approximately. The petitioner being concerned accountant was responsible for such funds. Apart from that, prima facie it reveals that society disburse the loans to those people from whom there was a likelihood that money will not be returned and also the over staffing in the bank which was not at all required and caused massive losses. Thus, the custodial investigation of the petitioner is required to know the involvement of other bank officials and other persons who had pressed the society for recruitment of staff more than the society required and also to know that for which reason, the society had disbursed loan to those operators to whom there were no chances it being recovered. All these irregularities caused massive loss to the bank to the tune of Rs.25,29,69,455.26/-.

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7 Given above, petitioner's custodial interrogation is required. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

8. In Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379, Hon'ble Supreme Court holds,

[19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. [See D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434, State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213 and Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305].

9. In State rep. by CBI v. Anil Sharma, (1997) 7 SCC 187, Hon'ble Supreme Court holds,

[6]. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.

10. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail at this stage.

11. Any observation made hereinabove is neither an expression of opinion on the case's merits, neither the court taking up regular bail nor the trial Court shall advert to these comments.

Petition dismissed in aforesaid terms. Interim order dated 29 Sep 2022, when considering the death of petitioner's father, this court had granted interim bail, along with all other interim orders are recalled. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

06.02.2023
anju rani

Whether speaking/reasoned:	Yes
Whether reportable:	No.