

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

I) CRM-M-51776-2022 (O&M)

Munish Kumar @ Munish Sharma ... Petitioner

Versus

State of Punjab ... Respondent

II) CRM-M-51866-2022 (O&M)

Vijay Kumar Maini ... Petitioner

Versus

State of Punjab ... Respondent

Date of Decision:-20.1.2023

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sartej Singh Narula, Advocate,
for the petitioner in CRM-M-51776-2022.

Mr. R.S. Bajaj, Advocate,
for the petitioner in CRM-M-51866-2022.

Mr. Siddharth Attri, AAG, Punjab,
assisted by Sub Inspector Arun Kumar.

GURVINDER SINGH GILL, J. (Oral)

1. This order shall dispose of the above mentioned two petitions filed on behalf of petitioners Munish Kumar @ Munish Sharma and Vijay Kumar Maini seeking grant of anticipatory bail in respect of a case registered vide FIR No.291, dated 13.10.2022, Police Station Rama Mandi, District Jalandhar,

under Sections 166, 166-A, 167, 409, 120-B of Indian Penal Code and Section 13 of Prevention of Corruption Act, 1988.

2. At the time of granting interim bail to the petitioners, the following order was passed on 22.12.2022 in both the cases:

“These two petitions are filed seeking anticipatory bail in case FIR No. 291, dated 13th October, 2022, under Sections 166, 166-A, 167, 409 and 120-B of Indian Penal Code, 1860 and Section 13 of the Prevention of Corruption Act, (for short 'the Act'), registered at Police Station Rama Mandi, Police Commissionerate, Jalandhar, Punjab.

As per the case set up, Vijay Kumar Maini (petitioner in CRM-M-51866-2022) got registered FIR No. 258, dated 4th September, 2022, under Sections 454 and 380 of Indian Penal Code, 1860, registered at Police Station Rama Mandi, District Police Commissionerate, Jalandhar. He alleged that Rs. 9,30,000/- was stolen from the British Olivia School, Rama Mandi, Jalandhar (hereinafter referred as 'the School'). It was suspected that Shamu working as an electrician in the school had committed the theft. Shamu was arrested on 11th September, 2022 and he got recovered Rs.8,05,500/-, LCD and blue scooty. On 20th September, 2022, Usha Sharma complainant in FIR No. 84, dated 8 th May, 2022 under Sections 454 and 380 of IPC made a supplementary statement that theft in her house was also committed by Shamu. During the investigation of the said FIR, Shamu was produced on production warrants and he disclosed that he had not committed theft in the house of Usha Sharma but Rs.35,00,000/- was stolen from the school. Accepting his statement, he was discharged in FIR No. 84 and the present FIR was registered against the Vijay Kumar Maini and Munish Kumar @ Munish Sharma ASI in Punjab Police posted at Police Station Rama Mandi, Punjab. The allegations are that Vijay Kumar Maini had intentionally withheld the actual amount of theft and Munish

Kumar @ Munish Sharma had embezzled the recovery made from Shamu.

Learned counsel for the petitioners submit that FIR has been registered on the basis of disclosure statement. There is no recovery from Shamu to substantiate the allegations made against the petitioners. It is further argued that statement of the accused without there being corroborating evidence, is being accepted and he has been discharged in FIR No. 84 dated 8th May, 2022. They further submit that petitioners are not involved in any other case.

Learned State counsel opposes the prayer for grant of bail and submits that co-accused disclosed that he had stolen Rs.35,00,000/- from the school.

It is clarified that observations made hereinafter shall not be construed as an expression of opinion on the merits of the case.

The allegations against the petitioners are based upon a disclosure statement of accused in FIR No. 258 dated 4th September, 2022. A counter FIR against Investigating Officer and the complainant is registered on the basis of disclosure statement, petitioners have no criminal antecedents, petitioners are granted interim bail subject to their joining investigation within ten days. In the event of arrest, they shall be released on bail subject to their furnishing adequate bail bonds to the satisfaction of the Investigating Officer. They are directed to join the investigation as and when called for. Petitioners shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

List on 20th January, 2023.

Pending CRM-48022 of 2022 in CRM-M-51866-2022 for interim bail rendered infructuous.

A photocopy of this order be placed on the file of connected case.”

3. Learned State counsel, upon instructions from Sub Inspector Arun Kumar, has informed that pursuant to interim directions, the petitioners have since joined investigation and they are not required for any custodial interrogation. Learned State counsel has further informed that while the petitioner Vijay Kumar Maini (in CRM-M-51866-2022) is not involved in any other case, the petitioner Munish Kumar @ Munish Sharma (in CRM-M-51776-2022) earlier stands involved in one more case i.e. FIR No.62 dated 30.6.2018 under Sections 354-A, 354-D, 506 and 431 of Indian Penal Code but the said FIR had already been quashed.
4. Having regard to the aforestated position, wherein the petitioners are stated to have joined investigation and are not required for any custodial interrogation, both the petitions are accepted and the interim directions issued by this Court vide common order dated 22.12.2022 are hereby made absolute, subject to the condition that the petitioners shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438(2) Cr.P.C.
5. A photocopy of this order be placed on the file of connected case.

20.1.2023

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**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No