

CRM-M-53563-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-53563-2023
Date of decision: 19.10.2023

HARMESH KAUR AND ANOTHER

...Petitioners

Versus

STATE OF PUNJAB

...Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Ghulam Nabi Malik, Advocate,
for the petitioners.**RAJBIR SEHRAWAT, J. (Oral)**

1. The present petition has been filed under Section 438 Cr.P.C., praying for grant of anticipatory/pre-arrest bail to the petitioners in case FIR No.126 dated 28.09.2023, registered at Police Station Amargarh, District Malerkotla, under Sections 406 and 120-B IPC.

2. It is submitted by learned counsel for the petitioners that the case against the petitioners is totally false and concocted. The petitioners are not involved in the crime as alleged against them. As per the story of the prosecution, the complainant made a complaint before the Deputy Commissioner, Malerkotla, regarding misappropriation of government funds granted under the MGNREGA Scheme. On the basis of inquiry conducted by BDPO concerned, petitioner No.1, who is the Sarpanch of the village, was placed under suspension. Petitioner No.1 had challenged that suspension in an appeal before the Financial Commissioner, Punjab, Department of Rural Development and Panchayat, Punjab. However, the Financial Commissioner had upheld the order passed by the Deputy Commissioner. Therefore, the petitioner had approached this Court

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through CWP-21312-2023. In the said writ petition, vide order dated 22.09.2023 (Annexure P-4), this Court has stayed the order passed by the Deputy Commissioner, as well as, the Appellate Authority. After six days of stay having been granted by this Court, the present FIR has been registered by the police. This shows that the action of the authorities is accentuated by political reasons; to fix the petitioners on one pretext or the other. In fact, there are allegations qua embezzlement of amount of Rs.85,000/- only, which was meant for construction of cattle-sheds as per the resolutions passed by the Gram Panchayat under MGNREGA Scheme. Five such cattle-sheds were to be constructed in the village. For construction of one of such cattle-sheds, petitioner No.2, who is husband of petitioner No.1, came forward and had constructed the same. The said cattle-shed was duly inspected and approved by the authorities, including the concerned Addl. Deputy Commissioner. Only thereafter, the amount was released in favour of petitioner No.2, the husband of petitioner No.1. Therefore, there is absolutely no embezzlement of any amount in the matter. Otherwise also, under the MGNREGA Scheme, itself, the cattle-shed was to be constructed for the benefit of the person who was permitted to construct it. So it is a cattle shed of the petitioners only. There is no other case against the petitioners. The petitioners shall join the investigation as and when called by the police. Therefore, the petitioners deserve to be protected against their arrest.

3 Notice of motion.

4 On the asking of this Court, Mr. Sandeep Singh, Addl. A. G. Punjab, accepts notice on behalf of the respondent-State.

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5. It is submitted by counsel for the State, being instructed by ASI Shishpal that the petitioners in collusion with each other had caused a loss of Rs.85,000/- to the State Government, in the name of construction of cattle-shed. In fact, the allegation against the petitioners is that petitioner No.1 in collusion with her husband (petitioner No.2) had used the money for construction of a cattle-shed, and subsequently, that cattle-shed was merged by them with their own premises. Hence, the petitioners had got the financial benefit at the cost of the Government funds. However, it is not disputed that the shed was actually constructed by the petitioners; the same was inspected by the officials and thereafter only, the amount was released. It is also not disputed that the cattle-shed in question was meant to be constructed for the benefit of the petitioner No.2, under the MGNREGA Scheme. Still further, it is also not disputed that orders passed by the authorities have been stayed by this Court in the above-said writ petition.

6. In view of the above, but without commenting any further on the merits of the case, the present petition is allowed. In the event of arrest, the petitioners be released on bail, subject to their furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer. However, the petitioners shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

19.10.2023

parveen kumar

(RAJBIR SEHRAWAT)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No