

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CRM-M-56230-2022 (O&M)

Date of Decision: 15.03.2023

Anand Rathi

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. R.S. Rai, Senior Advocate with
Mr. Sushil Jain, Advocate for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 439 Cr.P.C., for grant of regular bail in case FIR No. 251 dated 11.05.2017 registered under Sections 120-B, 409 and 420 IPC (Sections 201, 406, 467, 468 and 471 were added later on) at Police Station Gannaur, District Sonipat.

According to the prosecution story, on 11.05.2017, a letter was received in Police Station Gannaur from the Superintendent, Post Office, Sonipat, stating therein that the petitioner is working as Assistant in Head Post Office, Sonipat. He also remained posted in Sub Post Office, Gannaur on 29.06.2016 and since 07.10.2016, remained absent from duty without any intimation. He misused the closed accounts while

doing the same *on line* from 29.05.2013 to 23.06.2016 while posted as *Sub Dakpal* Ganaur City. The petitioner had closed the account bearing No. 11105757 (TD), which was opened for one year, by depositing Rs.49,800/- in the name of Rajbala, on 15.01.2014 on maturity in Ledger book and in fact, in Computer, in Post Office, Murthal, the said account was not closed. The said account was shown as live in computer. It is alleged that the petitioner in collusion with Amit Kumar, System Manager, had misappropriated the funds from closed account No. 11105757 by transferring the same in Sub Division, Gannaur Post Office. A demand letter was sent to Post Master, Sonipat for preparing cheque of Rs.40,020/- in the name of Joginder and accordingly Cheque No. 374526 was issued. On 07.05.2016, the petitioner had sent voucher by showing signatures of Raj Bala, depositor and a cheque of Rs.4,00,240/- in the name of Joginder was got issued and the same was got encashed by Joginder from Oriental Bank of Commerce, Main Branch, Sonipat in S/A NO. 00562010075600. In this way, the petitioner had misappropriated the funds from the accounts lying already closed. During departmental enquiry, an amount of Rs.19,26,730/- was found embezzled. On this, present FIR was registered under Sections 409, 420 and 120-B IPC.

Learned counsel for the petitioner, *inter alia* contends that petitioner has maliciously and falsely been implicated in the false instant case since the scheme to Centralize the Postal Department of India (CBS) i.e. to convert all the Postal Departmental Accounts online using the

Finacle Software required the Superintendent, as well as the Post Master of the Head Post Office of the Postal, to check, verify and issue the cheques towards the beneficiaries whereas the role of the petitioner in his capacity as Postal Assistant was simply to do the clerical work by way of preparation of the cheques, etc. The offences are triable by a Magistrate. Petitioner is in custody since 19.05.2022. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. More so, co-accused of the petitioner, namely; Joginder Singh and Amit Kumar, have already been granted the concession of regular bail vide orders dated 18.09.2018 and 21.03.2022 (Annexure P-5 and P-10, respectively). Thus, it is prayed that the petitioner may also be released on regular bail.

On the other hand, learned counsel for the State vehemently opposed the submissions made by learned counsel for the petitioner and submits that the petitioner in collusion with his co-accused-Amit Kumar, System Manager in District Sonipat, transferred the amount of customers in other accounts of officials i.e. Peon Joginder, Jitender etc. and got encashed the same. He is also involved in many other cases relating to mis-appropriation or embezzlement of amounts lying in accounts of customer and caused loss to the Post Office.

Having considered the rival contentions of learned counsel for both the parties, keeping in view the facts and circumstances of the case, custody period of the petitioner, the fact that offences are triable by a Magistrate and trial would certainly take sufficient long time in

conclusion and also the fact that co-accused of the petitioner namely, Joginder Singh and Amit Kumar, have already been granted the concession of regular bail vide orders dated 18.09.2018 and 21.03.2022 (Annexure P-5 and P-10, respectively), but without commenting on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and petitioner-Anand Rathi, is ordered to be released on regular bail on furnishing of bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate concerned, subject to the following terms and conditions:-

1. That petitioner shall not leave the country without seeking prior permission from trial Court and shall furnish his entire identity proof like copy of Aadhar Card, Voter Card, PAN Card with residential address etc. to the satisfaction of trial Court.
2. That the petitioner shall not commit any offence similar to the offence of which he is accused or suspected.
3. That the petitioner shall not directly or indirectly make any inducement threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to tamper with the evidence.

In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

March 15, 2023
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(ASHOK KUMAR VERMA)
JUDGE

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