IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

280/2

CRM-M-59673-2022 (O&M)
Date of decision: 07.02.2023

BUTA SINGH PANCH AND ANR

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

*****

Present : Mr. Rakesh Chopra, Advocate
for the petitioners.

Mr. Kamalpreet Bawa, AAG Punjab.

Mr. Sarju Puri, Advocate
for the complainant.

*****

AMAN CHAUDHARY. J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in FIR No.186 dated 15.11.2022, under Section 306 of the Indian Penal Code, 1860 registered at Police Station Machhiwara, District Khanna.

This Court passed the following order on 22.12.2022:-

> "Present petition has been filed under Section 438 Cr. P.C. for grant of anticipatory bail to the petitioners in case FIR No. 0186 dated 15.11.2022, under Section 306 IPC, Police Station Machhiwara, Police District Khanna.
>
> Learned counsel for the petitioners inter alia contends that the petitioners are Panches of the Panchayat and had been performing their duties diligently and honestly and they had filed a complaint against the deceased before the BDPO with regard to the embezzlement of the funds at the hands of the deceased who was the Sarpanch wherein he was asked to give

SANDAL SHARMA
2023.02.14 15:55
I attest to the accuracy and
authenticity of this order/judgment

> an explanation required to produce relevant record including proceeding register, auction book, auction register, voucher file etc. There are allegations in the suicide note also.
>
> Learned counsel for the petitioners further contends that the BDPO had called the meeting of entire Panchayat Members on 02.11.2022, 09.11.2022 and 16.11.2022 wherein he did not appear. Learned counsel for the petitioners submits that there has been no instigation at the hands of the petitioners, even as per the alleged suicide note which has general allegations with no specific date or time, thus ingredients of the alleged offence are not made out. The petitioners are ready and willing to join investigations.
>
> Notice of motion for 02.02.2023. At the asking of the Court, Mr. Manipal Singh Atwal, DAG, Punjab accepts notice on behalf of respondent-State and vakalatnama of Mr. Harinder Singh Aujla, Advocate on behalf of complainant has been filed in Court today and the same is taken on record.
>
> Meanwhile, the petitioners are directed to join the investigation on or before 28.12.2022. In the even of arrest of the petitioners, they shall be released on interim bail to the satisfaction of the Arresting Officer, subject to compliance enshrined under Section 438 (2) Cr.P.C.
>
> However, it is clarified that if the petitioners does not join and cooperate with the Investigating Agency as required by the Arresting/Investigating Officer, this interim order shall be deemed to have been vacated."

Learned counsel for the petitioners submits that in pursuance of order dated 22.12.2022 of this Court, the petitioners have not only joined investigation but have also fully cooperated with the investigating agency. He further submits that in case the investigating agency requires the petitioners to appear, they shall make themselves available without demur.

Learned State counsel on instructions affirms the factum of joining the investigation by the petitioners and cooperating with the investigation agency. He also submits that at this stage, the petitioners are not required for further custodial interrogation.

In view of the above and without expressing any opinion on the merits of the case, anticipatory bail petition filed by the petitioners is allowed and

SANDAL SHARMA
2023.02.14 15:55
I attest to the accuracy and
authenticity of this order/judgment

the order dated 22.12.2022 granting interim bail to them, is hereby made absolute, subject to compliance of conditions as specified under Section 438(2) Cr. P.C

However, it is made clear that if the petitioners fail to join and cooperate with the investigation agency as and when required, the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to them.

(AMAN CHAUDHARY)
JUDGE

February 07, 2023
S.Sharma(syr)

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

SANDAL SHARMA
2023.02.14 15:55
I attest to the accuracy and
authenticity of this order/judgment