

CRM-M-57916-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57916-2023
Reserved on: 24.11.2023
Pronounced on:01.12.2023

Anil Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sant Pal Singh Sidhu, Advocate and
Mr. Yogesh Kumar Aneja, Advocate for the petitioner.

Mr. Ravinder Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
208	14.10.2023	Sadar Fazilka, District Fazilka	409 IPC and 13(1)(A) of Prevention of Corruption Act 1988 (P.C. Amendment Act 2018)

1. The petitioner apprehending arrest in the FIR captioned above, for embezzling the Panchayat funds, had come up before this Court under Section 438 CrPC seeking anticipatory bail by filing the present petition on 15.11.2023.
2. Vide order dated 17.11.2023, the petitioner was granted interim bail, which is continuing till date.
3. Facts of the case are being extracted from Paras 4 & 5 of the reply dated 23.11.2023, filed by the concerned DySP, which reads as under:-

“4 (a) That District Development and Panchayat Officer had sent an application to S.S.P. Fazilka for registration of FIR against the present petitioner Anil Kumar, who was the Sarpanch of Gram Panchayat, Banwala Hanwanta during the period 2013 to 2018, alleging that amount of Rs.77,16,498/- of grants was received by the panchayat during said period and conducted by as per enquiry Executive Panchayati Raj, Fazilka, was liable found to Engineer, the petitioner account for Rs.33,33,246/-. Therefore, letter No.1554 dated 19.07.2019 and letter No.1872 dated 28.08.2019 were sent by B.D.P.O. Fazilka to the petitioner calling upon him to deposit the said amount, but he did not deposit the said amount and orders for recovery of said amount, were passed under section 216(2) of Panchayati Raj Act, 1994. Therefore, legal action was demanded against the petitioner. After obtaining, legal opinion from D.A. (Legal) Fazilka, FIR No.208 dated 14.10.2023 under sections 409 of IPC and

CRM-M-57916-2023

Section 13 (1) (A) of Prevention of Corruption Act, 1988 & (P.C. Amendment Act, 2018) was registered against the present petitioner at police station, Sadar, Fazilka District Fazilka.

b) After registration of the present FIR, S.S.P. Fazilka vide letter No.9824/AE3 dated 02.11.2023 entrusted this case to Director, Bureau of Investigation Punjab, Chandigarh for sending Vigilance Department further investigation. the same carrying for to out Vide letter No.4591-94/Crime/Inv-5 dated 08.11.2023, the above noted case was sent to Vigilance Bureau Punjab, S.A.S. Nagar. Similarly, vide letter bearing 29/VB/S-9 Endst.No.47225- 17.11.2023 dated of Chief Director, Vigilance Bureau, Punjab present case was entrusted to the S.S.P. Vigilance Bureau, Range Ferozepur and the same was further sent to Vigilance Bureau, Unit Fazilka vide letter No.10327/VB/S-2 dated 21.11.2023 by S.S.P. Vigilance Bureau, Range Ferozepur for carrying out further investigation in the present case as per law.

c) That the petitioner is yet to be arrested in the present FIR. Investigation of the present FIR is still underway with Vigilance Bureau Unit, Fazilka.

5. That as per facts of the case, role of the petitioner has been established after enquiry conducted by Executive Engineer (Panchayati Raj) Fazilka that during the period 2013 to 2018, grants of a total amount of Rs.7716498/- were received by Hanwanta for gram panchayat out carrying Banwala different developments. After above noted enquiry, the petitioner/accused (who was the then Sarpanch of said gram panchayat) was found liable to account for Rs.33,33,246/-, detail of which is as under:

Sr. no.	Detail of Grant	Amount received	Assessment/Recoverable amount
1	Boundary Wall of Stadium	600000.00	308398.00
2	C.C. Flooring of streets, drains Gursewak Singh Power House, Sarmukh Singh, Pakka Water course Mogha No.58159 Right Branch	3571498.00	1500877.00
3	R.C.C. Disposal Pipe Line	900000.00	296149.00
4	Discretionary Grant School repair	1000000.00	715815.00
5	C.C. Flooring R.D.F.	500000.00	NIL
6	Approach Road	500000.00	NIL
7	S.C. Quota Streets Drains	645000.00	NIL
	Amount of Assessment		3333246.00

It is further respectfully notices were issued by BDPO submitted that Fazilka to the petitioner for recovery of the said amount, but the petitioner miserably failed to deposit the the same. Therefore, orders for recovery of the said amount were passed under section 216(2) of Panchayati Raj Act, 1994. Hence, the present petitioner cannot shirk his criminal liability.”

CRM-M-57916-2023

response filed by the State.

4. Petitioner’s counsel argued that the allegations are of mis-utilization of funds whereas, regarding boundary wall and the total deficiency would come to around Rs. 3 lacs. He submits that some funds are still lying with Panchayat. He further argued that the present FIR has been registered because elections are coming and the petitioner is a serious and strong contender and the opponents are afraid that he is likely to win in elections and therefore they are indulging the petitioner in false and forged cases. Petitioner’s counsel further argued that in case, the petitioner is not granted bail, it would not only cause serious prejudice to him but also scuttle democratic process.

5. Perusal of the aforesaid reply explicitly points out that work in question pertains to the year from 2013 to 2018 and as per the inquiry a sum of Rs.33,33,246/- was not candid for. Inquiry officer had called the petitioner to deposit the amount but he did not deposit the said amount and orders for recovery of said amount were passed under Section 216(2) of Panchayati Raj Act 1994. Now the FIR has been registered for recovery of the said funds.

6. Petitioner’s counsel submits that out of seven grants mentioned in para 5 (supra) of the reply, only dispute pertaining to boundary wall of the stadium, of which assessment/recoverable amount is Rs.3,08,398/- and regarding other works, utilization certificate were duly given.

7. Given the fact that the incident pertains to the year from 2013 to 2018 and also the fact that demand notice was sent to the petitioner and in case he had paid the money on which they would have probably not provides for registration of FIR, this Court does not feel that any custodial interrogation or any pre-trial incarceration is required and as such, the petitioner is entitled to bail.

8. Given above, petition is allowed and interim order dated 17.11.2023 is made absolute. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

01.12.2023
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.