

CRM-M-58589-2023

211 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-58589-2023 (O&M)

Date of Decision: 20.12.2023

AJAY KUMAR

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Deepender Singh, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Through instant petition, the petitioner is seeking anticipatory bail in case FIR No. 474 dated 07.11.2023 registered under Sections 406/420 of Indian Penal Code (Sections 409, 467, 468 and 471 of Indian Penal Code added later on and Section 406 of IPC deleted) at Police Station Kaithal City, District Kaithal.

2. On 20.11.2023, following order was passed:

“This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in a case bearing FIR No.474 dated 07.11.2023 under Sections 406/420 of IPC (Sections 409/467/468/471 of IPC were added later on and Section 406 of IPC was deleted) registered at Police Station Kaithal City, District Kaithal (Haryana).

Learned counsel for the petitioner inter alia contends that the present FIR was lodged on the allegation that eight cheques bearing total amount of Rs.5,80,000/- approximately, have been encashed and the same amount has been misappropriated.

He further contends that the petitioner has

been falsely implicated in the present case and he has an unblemished career of 27 years of service with Haryana Shahari Vikas Pradhikaran HSVP. The cheques in question were related to official dues of Gymkhana Club to Electricity Department (UHBVN), BSNL, Contractor and monthly salary of other employees and the petitioner is not the beneficiary of the alleged misappropriation rather the account was sanctioned by the competent authority only, thereafter, the F.D. was liquidated and these cheques were encashed.

Notice of motion.

On the asking of the Court, Mr. Gurmeet Singh, AAG, Haryana puts in appearance and accepts notice on behalf of the respondent-State.

In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833, at the first instance, the petitioner is directed to appear before the Investigating Officer on or before 28.11.2023 and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C.

If the Investigating/Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the Illaqa Magistrate,

who would then summon the Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 20.12.2023.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.”

3. Learned State counsel on instructions from ASI Kuldeep, submits that in compliance of order dated 20.11.2023 passed by this Court, the petitioner has joined the investigation but has not co-operated with the Investigating Agency.
4. Keeping in view the fact that the petitioner has joined the investigation, the order dated 20.11.2023, is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) of Cr.P.C.
5. The petition is accordingly allowed.

20.12.2023
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No