

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-1096-2023 (O&M)
Date of decision: 05.03.2024

Gurwinder Singh @ Gora

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Parminder Singh-I, Advocate
for the petitioner.

Mr. Neeraj Madaan, Sr. DAG, Punjab.

Mr. Hitesh Verma, Advocate
for the complainant.

MAHABIR SINGH SINDHU, J. (ORAL)

Petition under Section 438 of the Code of Criminal Procedure, 1973 has been filed for grant of pre-arrest bail to the petitioner in FIR No.169 dated 30.11.2022, under Sections 409, 465, 467, 468, 471 of the Indian Penal Code, 1860, registered at Police Station Nahianwala, District Bathinda.

2. Status report dated 05.03.2024 by way of affidavit of Harshpreet Singh, PPS, Deputy Superintendent of Police, Sub Division Bhuchio, Bathinda has been produced on record. The same is taken on record. Copy has been supplied to other side. Registry to tag the same at appropriate place.

3. Allegations against the petitioner are that he tempered with records of Cooperative Society and embezzled the amount to tune of more than Rs.6 lakh.

4. Contends that the Coordinate Bench, granted interim bail to petitioner on 14.03.2023 and in terms thereof, he has already joined the investigation and his custodial interrogation is not required.

5. Above factual position is duly acknowledged by learned State Counsel, on instructions from ASI Ranjit Singh, who is present in Court and further stated that custodial interrogation of the petitioner is not required at this stage.

6. Although learned counsel for the complainant vehemently opposed the prayer on the premise that recovery of alleged embezzled amount is yet to be effected, however, on being encountered with query regarding recovery proceedings under the Punjab Cooperative Societies Act, 1961, he candidly acknowledged that till date, no recourse has been taken against the petitioner under aforesaid Act.

7. Heard learned counsel for the parties and perused the paper-book.

8. It is an admitted position that petitioner was granted interim bail by the Coordinate Bench on 14.03.2023 and relevant part of the same is recapitulated as under: -

“Learned State counsel has placed on record the status report by way of affidavit of Rashpal Singh, D.S.P., Sub Division, Bhucho, District Bathinda. Same is taken on record. It has been mentioned in the status report that embezzlement on the part of the petitioner

was noted on various occasions.

Learned counsel for the complainant has vehemently submitted that the petitioner has embezzled an amount of Rs.27 lakh, however, counsel for the petitioner submits that the petitioner has been implicated by the complainant due to the rivalry between the members of the society. He submits that the allegations pertaining to the embezzlement are false and frivolous and a team of 3 Inspectors was constituted to check the record. It is submitted that petitioner is ready to cooperate in the verification of the record, if, he is given opportunity to join investigation.

In view of the above position, order dated 10.1.2023 is modified to the extent of directing the petitioner to join investigation.

List on 30.5.2023.

State is directed to file a fresh status report after joining investigation by the petitioner.

In the meanwhile, in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

- (i) That the petitioner shall make himself available for interrogation by a police officer as and when required to do so.*
- (ii) 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 any police officer.*
- (iii) That the petitioner shall not leave India without prior permission of the court.”*

9. It is acknowledged by learned State counsel that in pursuance of

above order, petitioner has joined the investigation and his custodial interrogation is not required at this stage.

10. In view of the fact that State of Punjab is not seeking custodial interrogation, therefore, objection raised by learned counsel for the complainant is rejected.

11. In view of above, interim order dated 14.03.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

12. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

13. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.

14. Disposed off accordingly.

15. Pending application(s), if any, shall also stand disposed off.

05.03.2024
vishnu

[MAHABIR SINGH SINDHU]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No