

CRM-M-7934-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7934-2024
Reserved on: 04.03.2024
Pronounced on: 14.03.2024

Deepak Raturi ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ankur Bansal, Advocate for the petitioner.

Mr. Swati Batra, DAG, Punjab (Through VC).

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
14	28.08.2019	Vigilance Bureau, District Patiala	409, 420 & 120-B IPC and Section 13(1)(A) of Prevention of Corruption (Amendment) Act 2018

1. The petitioner, who was allegedly posted as Chowkidar in MM Open Plinth, Nabha, where wheat was stocked and according to the prosecution wheat was put on fire to conceal the misappropriation of 28634 bags of wheat, is now apprehending arrest in the FIR captioned above, has come up before this Court under Section 438 CrPC seeking anticipatory bail.

2. In paragraph 23 of the bail petition, the accused declares that he has no criminal antecedents.

3. Petitioner's counsel prays for bail by imposing any stringent conditions including declaration of assets by the petitioner and their family members, and are also voluntarily agreeable to the condition that till the conclusion of the trial, the petitioner shall keep only one mobile number, which is mentioned in AADHAR card, if any, and within fifteen days undertakes to disconnect all other mobile numbers. The petitioner contends that custodial interrogation and pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. The state's counsel opposes the bail and states that considering the allegations,

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the petitioner's custodial interrogation is necessary.

5. Prosecution's case is being taken from the reply dated 22.02.2024 filed by the concerned DySP and the same reads as follows:

"3. That the brief facts of the case are that a fire incident took place at Godown of PUNSUP at village Paharpur district Patiala under the jurisdiction of Nabha Centre (district Patiala) in the intervening night of 26/27-03-2015. Accordingly, the spot was inspected by the then District Manager, PUNSUP on 27-03-2015 and submitted his report. Copy of the report is attached herewith as Annexure R-1. The District Manager, PUNSUP after checking the spot, the following facts were observed: -

(i) No clear-cut fact comes to light regarding out break of fire. So far, the question of out break of fire due to short circuit, it is appropriate to mention here that no electric wire is passing over head Chakka (heap of wheat). Plinth is situated at distance from boundary wall.

(ii) The District Manager, PUNSUP have recorded the statements of Chowkidars, there is difference in the statement of each other with regard to arrival of the Incharge Ranjit Singh, Chowkidar has disclosed that Incharge has arrived in Godown at 02:00 A.M., whereas, others have disclosed that the Incharge has come in the morning.

(iii) Incharge has alleged that his phone was on silent, so he could not hear the phone of Chowkidar. This fact was also suspected.

(iv) None of chowkidar tried to call fire brigade at the spot, whereas. It was their primary duty.

(v) One Chowkidar Kesar Singh, who was on morning duty has alleged that all the Chakka's affected by the fire were incomplete. This fact does not tally with the statement of Incharge and statement of other Chowkidars.

(vi) One Chakka was not affected with fire, which is situated in between other Chaka's which were affected with the fire.

From the facts mentioned above, The District Manager, PUNSUP came to the conclusion that the entire occurrence is suspected and seems to be self made and in view of the above, FIR is liable to be registered against the Incharge and Chowkidars posted on duty and administrative action is liable to be taken against them. So that all facts can come to light.

4. That in view of above preliminary enquiry conducted by PUNSUP, department found that there is huge shortage of wheat stock in the godown under the supervision of the Deepak Ratauri (present petitioner), Didar Singh and Shuwinder Singh Security Guard, and his co- accused Iqbal Singh. After conducting the enquiry in the matter, Managing Director, PUNSUP, Chandigarh vide letter No. JM(Bhandar)/Enquiry/2015/21450 dated 15-08- 2015 referred the matter to the Chief Director, Vigilance Bureau, Punjab, Chandigarh to take necessary action against the petitioner and other co-accused. Similarly, Chief Vigilance Officer,PUNSUP, Head Office, Chandigarh vide letter No. V.O.(88)/2015/34099 dated 25-12-2015 referred the matter to Chief

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Director, Vigilance Bureau, Punjab, Chandigarh to take necessary action against the petitioner and other co-accused.

5. That in view of the above noted letters received from PUNSUP against the petitioner and other co-accused, Enquiry No.16 dated 07-11-2016, was registered in the office of Chief Director, Vigilance Bureau, Punjab, Chandigarh and the matter was referred to the office of S.S.P. Vigilance Bureau, Patiala vide letter No. 48522 dated 09-11-2016. Thereafter, the enquiry in the matter was conducted by the Vigilance Bureau, Patiala.

6. That after conducting the enquiry in the matter by the office of S.S.P. Vigilance Bureau, Patiala, the matter was referred to Chief Director, Vigilance Bureau, Punjab, Chandigarh vide letter No. 2661/VB/Crime dated 15-03-2019. After examination of the enquiry report in the office of Chief Director, Vigilance Bureau, Punjab, Chandigarh, S.S.P. Vigilance Bureau, Patiala was directed to register FIR against the concerned persons vide letter No.40075/VB/S-6 dated 27-08-2019. Accordingly, present FIR No. 14 dated 28-08-2019 was registered against Deepak Ratauri (present petitioner) Security Guard, Didar Singh Security Guard, Ranjit Singh Chowkidar and Shuwinder Kumar Security Guard.

6. The above captioned FIR was registered because of the fire that had taken place in the intervening night of 26/27.03.2015, in which massive amount of wheat was shown to have been burnt. However residues of the burnt bags were not thrown and there was no reason for the fire which lead to the enquiry and consequent FIR.

7. I have heard counsel for the parties and gone through the pleadings and its analysis would lead to the following outcome.

8. Petitioner seeks bail on the grounds that Iqbal Singh was incharge of MM Open Plinth, Nabha, where the wheat was stocked and a Coordinate Bench of this Court had granted anticipatory bail to said Iqbal Singh vide order dated 06.08.2021 passed in CRM-M-44579-2019. Petitioner's counsel submits that entire investigation is that the petitioner had put the wheat bag on fire on the asking of said Iqbal Singh and to help him and once main accused has been granted bail, there was no reason to deny bail to the petitioner, who was posted as Chowkidar. Petitioner's counsel further made the following submissions:-

9. Counsel for the petitioner submits that petitioner was employed by private security guard by the provider for the PUNSUP Department for Nabha Area and not posted as Chowkidar at the M.M. Open Plinth but he was posted as Chowkidar in Bhawani Rice Mill, Nabha District Patiala. He further submits that fact can be verified from the Duty Magistrate, Patiala.

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10. Counsel for the petitioner further submits that on the midnight of 26.03.2015, petitioner was called by Shuvinder Kumar to reach at M.M Plinth as fire has broke out and he need help in putting off the fire. Petitioner reached at the spot and found fire broke out at the spot. He asked Shankar Yadav Chowkidar to call the fire brigade but he told the petitioner not to call the fire brigade and ran away from the spot. Petitioner helped the other security guards posted at M.M Plinth in putting on fire. When PUNSUP department conducted detailed enquiry in the matter, no role of the petitioner in putting fire to the stock as alleged in the FIR, is found out by the department. (Enquiry report Annexure P-2 @ Pg. 19). However, as per the statement of Shankar Yadav recorded in the said enquiry, the petitioner was present at the Plinth and he named the petitioner in his said statement. In the statement of Shankar Yadav "he received information from Bajigar Basti that fire has broke out in the godown. Didar Singh called me, Sonu, Deepak and one more person at the spot. On coming to know about his false implication in the case at the behest of Shankar Yadav Chowkidar, petitioner gave detailed representation to the Vigilance Department regarding his innocence. (Annexure P-3 @ Pg. 23).

11. Counsel for the petitioner further alleged that Iqbal Singh, Incharge of M.M Plinth Nabha is granted anticipatory bail by this Hon'ble Court vide order dated 06.08.2021. (Annexure P-4 @ Pg. 25). Thus, fire had already broke out when Shankar Yadav reached at the spot and as per his version Didar Singh called the petitioner and other persons to reach at the spot to put off the fire. Meaning thereby, petitioner had no role in putting the fire in the M.M Plinth.

12. However counsel for the State opposes the bail and submits that the evidence against Iqbal Singh is of criminal conspiracy however evidence against the petitioner is not only that he was posted as Chowkidar in the Plinth but also a statement of Chowkidar recorded under Section 164 CrPC, in which he explicitly mentioned and named the petitioner as the person who had put wheat stock on fire. The said Chowkidar further testified that when he tried to extinguish the fire, petitioner and other accused restrained him to do so. Although the said Chowkidar-Shankar Yadav also stated that Iqbal Singh had threatened him on telephone and had warned him not to make a statement under Section 164 CrPC but certainly if Iqbal Singh has hampered the investigation, State has right to file application for cancellation of his anticipatory bail but further on this ground, the petitioner cannot be entitled to bail on parity. State counsel further submitted that the prosecution is taking stand and initially in this case, they are showing the petitioner along with co-accused security guard whereas given the affidavit dated 22.01.2020, they had mentioned that it was Didar Singh who was posted

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as Security Guard and Iqbal Singh was Incharge. State counsel further submits that this is not a contradiction but since the bail petition was filed by Didar Singh, as such reply points towards him. It has come in the statement under Section 164 CrPC of Shankar Yadav that Chowkidar has put wheat stock on fire and petitioner was Chowkidar. State counsel further submits that this Court had already rejected the bail of other Chowkidar-Didar Singh vide order dated 07.12.2023 passed in CRM-M-57055-2023 and also of Shuvinder vide order dated 29.01.2024 passed in CRM-M-2252-2024, as such this Court cannot take a contrary view by deciding the petition in favour of the petitioner.

13. Petitioner's counsel submits that the petitioner worked at Bhawani Rice Mill, Nabha, District Patiala. He was neither posted or deputed or worked at M.M Plinth, where the fire broke out on the stored stock. (Para no.6 of the Bail Petition) In the reply filed by the State, the place of posting of the petitioner at Bhawani Rice is not denied. No reply to the representation given by the petitioner to the Vigilance Department of his innocence. his place of posting and working is intentionally concealed by the state). Counsel for the petitioner has referred to a letter dated 22.01.2020 written by Datar Security Service Group to the Inspector Police, Vigilance Bureau, Patiala and in which petitioner Deepak Raturi @ Deepak Sharma's account number has been mentioned. A copy of the said letter was also handed over to the State and it would be relevant to extract the said letter, which reads as follows:-

"DSSG/VB/PSP/106/2019-20

Dated 22.01.2020

The Inspector Police

Vigilance Bureau, Patiala

*Case No.14 dt. 28/08/2019 under Section 409, 420,120 B IPC & 13(1)(A)
PC Act 1988 as amended by PC Act Amendment Act 2018 PC Vigilance
Bureau*

Dear Sir

1. *Please refer to your letter number 18 dated 21.01.2020*
2. *The available copies of record were submitted to your office vide out letter number DSSG/VB/PSP/100/2019-20 dt 23.12.2019*
3. *The account number of the individual in which their salaries have been transferred are as under:-
Didar Singh PNB A/C No.4666000100037171
Savinder Kumar A/C SBOP/SBI 55144362968
Deepak Sharma A/C SBOP/SBI 5514475701*
4. *It is confirmed that their salaries from January to May 2015 has been transferred in these accounts*
5. *The Security Guards provided to District Manager Patiala in the*

year 2015 varied from 130 to 158 depending upon the demands of PUNSUP.

6. It is further submitted that there has been an incident of fire in our office in Dec 2018 in which most of records and computers and office equipment were destroyed. However all out efforts have been made to provide relevant records out of retrieved documents as asked for.

Thanking You

Yours Faithfully

For DATAR SECURITY SERVICE GROUP

14. State counsel refers to the statement of Harminder Kaur Senior Assistant, PUNSUP, Patiala, recorded by investigator on 13.11.2019 wherein she clearly states that as per attendance report sent by Iqbal Singh, Incharge, Nabha for the month of March 2015, Shuvinder Kumar, Didar Singh, Deepak Sharma were present at PUNSUP Centre, Nabha. State counsel also refer para No.8 to 11 & 13 of the order dated 07.12.2023 passed by this Court in CRM-M-57055-2023 which are reproduced:-

“8. It will be pertinent to refer to para no.10 of the reply which reads as follows:-

“10. That as per special Physical Verification conducted by the PUNSUP on 14-05-2015 to 18-05-2015 the stock was as under:-

Sr.No.	Crop	Name of godown	Number of bags stored/weight	Number of bags available at the spot
1	Wheat for the year 2014-15	Thuhi Food Open Complex	133700 bags/66850-00	129130 bags/ shortage 4570 bags
2	-do-	MM Open Plinth-I Paharpur	136400 bags/68200.00	118980 bags/shortage 17420 bags
3	-do-	MM Open Plinth-II Paharpur	51651 bags/25825-50	45007 bags/shortage 6644
Total loss				28634 bags

9. It will be pertinent to mention here that before fire, the stock of the wheat as per the registers was exactly the same, however after the fire there was massive shortage. Total 28634 bags were found short. It is clear that even if the fire had taken place, still there would be evidence of burnt bags.

10. The role of the petitioner as mentioned in para no.11 of the reply reads as follows:-

"11. That it is pertinent to mention here that Didar Singh, Security Guard above noted is none else but real nephew of the Incharge Iqbal Singh, who was holding the charge at that time. To cover up loss caused/misappropriation of above noted 28634 bags, Iqbal Singh himself put the plinth MM-II himself on fire through his nephew Didar Singh Security Guard and above noted associates. As per assessment of loss made by PUNSUP is of Rs.2,76,73,043/- (Rupees Two Crore, seventy six lakh, seventy three thousand forty three). Apart from material i.e. Bardana loss of Rs.1,67,946/- was also caused by the Iqbal Singh the State Government in connivance with his nephew -Didar Singh."

11. *Given the statement of Chowkidar Shankar Yadav under Section 164 Cr.P.C. in which he had explicitly named the petitioner, who as per him, was putting on fire along with co-accused, whereas when the said Chowkidar tried to put off the fire, they restrained him to do so. After that, they even threatened him telephonically on 18.07.2015 and told him to stand to his earlier statement, otherwise Iqbal Singh would not spare him. The said Iqbal Singh had disclosed about the threat to District Incharge Patiala.*

13. *Counsel for the petitioner submits that co-accused Iqbal Singh was granted bail, however, evidence against the petitioner is of eye witness and in the nature of 164 Cr.P.C. statement which stands on higher footing under Section 154 or 161 Cr.P.C. There is nothing to doubt the veracity or credibility of the Chowkidar who had seen the petitioner and his co-accused putting the wheat/plinth on fire wherein the said Chowkidar had explicitly named the petitioner, Didar Singh, security guard, Sonu and one more person. He explicitly named Sonu, Didar Singh and one person as the people who were putting fire and Iqbal Singh was also mentioned amongst those. He was not attributed anything and he only came there in the morning at 6 A.M. as such a Co-ordinate Bench of this Court had granted bail to him on different grounds. Petitioner cannot claim parity with co-accused."*

15. Ground taken by the petitioner that he was not present at the spot is not correct, because record speaks some thing else. Even the letter produced by petitioner only disclose that he was engaged by private agency. Perusal of the order passed in the bail application of co-accused shows that petitioner's case is not different from those and

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this Court could not pass contrary order in this case and he is not entitled for bail.

16. Given the nature of allegations, custodial interrogation is required to find involvement of other accused. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

17. In *Sumitha Pradeep v Arun Kumar CK*, 2022 SCC OnLine SC 1529, Supreme Court holds,

[16]. ... We have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

18. In *State of Gujarat v. Mohanlal Jitmalji Porwal* (1987) 2 SCC 364, Supreme Court holds,

[5].The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest....."

19. In *State rep. by CBI v. Anil Sharma*, (1997) 7 SCC 187, Supreme Court holds,

[6]. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would

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elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.

20. In Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379, Supreme Court holds,

[19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. [See D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434, State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213 and Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305].

21. In Y.S. Jagan Mohan Reddy v. CBI (2013) 7 SCC 439, Supreme Court holds,

[34]. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

[35]. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.

22. In P. Chidambaram v. Directorate of Enforcement, 2019 9 SCC 24, Supreme Court holds,

[70]. We are conscious of the fact that the legislative intent behind the introduction of Section 438 Cr.P.C., 1973 is to safeguard the individual's personal liberty and to protect him from the possibility of being humiliated and from being subjected to unnecessary police custody. However, the court must also keep in view that a criminal offence is not just an offence against an individual, rather the larger societal interest is at stake. Therefore, a delicate balance is required to be established between the two rights - safeguarding the personal liberty of an individual and the societal interest. It cannot be said that refusal to grant anticipatory bail would amount to denial of the rights conferred upon the appellant under Article 21 of the Constitution of India.

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23. In Central Bureau of Investigation v. Santosh Karnani, Cr.A 1148 of 2023, dated 17-04- 2023, Supreme Court, in an FIR registered under sections under Sections 7, 13(1) and 13(2) of the Prevention of Corruption Act, 1988, holds,

[24]. The time-tested principles are that no straitjacket formula can be applied for grant or refusal of anticipatory bail. The judicial discretion of the Court shall be guided by various relevant factors and largely it will depend upon the facts and circumstances of each case. The Court must draw a delicate balance between liberty of an individual as guaranteed under Article 21 of the Constitution and the need for a fair and free investigation, which must be taken to its logical conclusion. Arrest has devastating and irreversible social stigma, humiliation, insult, mental pain and other fearful consequences. Regardless thereto, when the Court, on consideration of material information gathered by the Investigating Agency, is prima facie satisfied that there is something more than a mere needle of suspicion against the accused, it cannot jeopardise the investigation, more so when the allegations are grave in nature.

[31]. The nature and gravity of the alleged offence should have been kept in mind by the High Court. Corruption poses a serious threat to our society and must be dealt with iron hands. It not only leads to abysmal loss to the public exchequer but also tramples good governance. The common man stands deprived of the benefits percolating under social welfare schemes and is the worst hit. It is aptly said, “Corruption is a tree whose branches are of an unmeasurable length; they spread everywhere; and the dew that drops from thence, Hath infected some chairs and stools of authority.” Hence, the need to be extra conscious.

24. In the background of the allegations and the light of the judicial precedents mentioned above in the facts and circumstances peculiar to this case, the petitioner fails to make a case for anticipatory bail.

25. Any observation made hereinabove is neither an expression of opinion on the case's merits, neither the court taking up regular bail nor the trial Court shall advert to these comments.

Petition dismissed. All pending applications, if any, also stand disposed.

(ANOOP CHITKARA)
JUDGE

14.03.2024
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Whether speaking/reasoned:	Yes
Whether reportable:	No.