



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-14983-2023 (O&M)

Date of decision: 06.08.2024

Madan Lal @ Madan Lal Jalalpur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. R.S.Rai, Senior Advocate assisted by
Mr. Jagat Vir Dhindsa & Ms. Radhika Mehta, Advocates
for the petitioner.

Mr. D.S.Brar, Sr. D.A.G., Punjab for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.12 dated 26.05.2022 (P-1), under Sections 406, 420, 409, 465, 467, 468, 471, 120-B of the Indian Penal Code, 1860 (Section 201 IPC added later on); Section 13 (1) (A) read with Section 13(2) of the Prevention of Corruption Act, 1988 as amended by Prevention of Corruption (Amendment) Act, 2018, registered at Police Station Vigilance Bureau Patiala, District Patiala.

(2) Above FIR was registered by complainant-Satpal Singh, DSP, Vigilance Bureau Range Patiala with the allegations that by showing fake development works of panchayat, Rs.6,66,47,036/- was embezzled by the

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office bearers of Gram Panchayat “Aakri” and Gram Panchayat “Sehri” in connivance with other co-accused.

(3) In compliance of order dated 16.07.2024, Status Report by way of an affidavit dated 19.07.2024 of Sh. Satpal Sharma, DSP, Vigilance Bureau, Patiala Range, Patiala, along with Annexure R-1, has already been filed in the Registry. The same is taken on record.

(4) For reference, para No.6 of the above affidavit is extracted as under:-

“6. That out of 13 petitions pending before this Hon'ble Court, due to the relief given by this Hon'ble Court to the petitioners to join the investigation, all the petitioners had joined in the investigation of the above noted case, as shown in Annexure R-1 and the amount of embezzlement has also been shown therein by each petitioner, but none of accused/petitioner has disclosed, where the embezzled amount has gone and where these amounts have been kept by them, thus none of the petitioner out of 13 petitioners has co-operated with the investigating agency. Till date the investigation agency could not recover even single penny out of huge amount embezzled by them. Therefore, all the petitions are liable to be dismissed.”

(5) Learned Senior Counsel contends that petitioner was granted interim bail by the then Coordinate Bench, vide order dated 29.03.2023 and in pursuance thereof, he has already joined investigation; thus, his custodial interrogation is not required. Also contends that although, it is the objection of prosecution that some money is yet to be recovered; but that cannot be a ground to deny the pre-arrest bail.

(6) *Per contra*, learned State Counsel, on instructions, objected the prayer on the premise that certain amount is yet to be recovered.

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(7) Heard learned Counsel for the parties and perused the paper-book.

(8) It is not in dispute that petitioner was granted interim bail by the then Coordinate Bench, vide order dated 29.03.2023 and the order reads as under:-

“Status report by way of an affidavit of Satpal Sharma, PPS, Deputy Superintendent of Police, Vigilance Bureau, Patiala Range, Patiala has been filed on behalf of respondent-State.

Learned counsel for the petitioner submits that the initially the FIR has been registered against 27 persons alleging that various resolutions were passed by officials of two Gram Panchayats namely Aakri and Sehri whereas on the spot no work had been done for certain projects or incomplete work had been done for the rest of the assignments. The petitioner was not named in the FIR. No role was attributed to him. During preliminary enquiry, Investigating Agency had verified the record of village Aakri and found some incriminating material against Sarpanch Smt.Harjit Kaur, Member Panch Charanjeet Kaur, Avtar Singh, Sukhwinder Singh, Darshan Singh, Kulwinder Kaur and Panchayat Secretary Jasvinder Singh. Similarly in respect of Village Sehri, Investigating Agency found some role of Sarpanch Manjeet Singh, Member Panchayat Smt. Jatinder Rani, Lakhvir Singh, Smt. Pawandeep Kaur and Panchayat Secretary Lakhminder Singh. During investigation, the scope of enquiry was enlarged thereby covering three more additional villages. The challan was presented against 15 persons. Petitioner was not named in the report under Section 173 Cr.P.C. After 8 months of registration of FIR and 5 months of presentation of challan, the name of the petitioner has been disclosed by co-accused Dinesh Kumar Bansal on the basis of a diary maintained by him showing entry of Rs.1.5 crores which

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had been paid to the petitioner. A disclosure statement was recorded on 02.02.2023 wherein Dinesh Kumar Bansal had disclosed that co-accused Jasvir Chand (Panchayat Secretary) had proposed to him that he would help him for obtaining contract for working assignments and for that commission would have to be paid to the petitioner. In the aforesaid diary, Dinesh Kumar Bansal had made some entries of money allegedly paid to the petitioner. The petitioner has been named on account of suspicion and the allegation that the petitioner had deputed Jasvir Chand Panchayat Secretary for striking the deal with various contractors who would in turn pay a commission for the execution of contract likely to be assigned to them. It has also been alleged that Dilawar Kaur BDPO had also made a disclosure statement, wherein she has stated that she used to refuse to sign any cheque but the petitioner used to call her to get the cheque signed. As per the scheme floated by the Government of Punjab, the cultivators of the land were to be compensated at the rate of 9 lakhs per acre and the petitioner had demanded a commission from the persons in cultivating possession for the release of the said compensation.

With reference to the status report, learned counsel for the petitioner submits that the Investigating Agency is shown to have recorded statements of persons namely Bant Ram, Milkhi Ram, Pritam Singh, Shingara Singh and Piaro Ram, but while declining the bail to the petitioner, the statements of 4 persons are shown to have been recorded by the Court of Sessions namely Baru Ram, Balkar Singh, Shingara Singh and Baru Ram. With reference to the aforesaid discrepancy, learned counsel for the petitioner has vehemently submitted that prosecuting agency is not sure about the allegations against the petitioner. Dilawar Kaur was initially named in the FIR but she was arrested only on 07.02.2023.

As per para 5 of the order passed by the Court of Sessions, the pointed allegation was that an amount of Rs.9,50,000/- per

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person was transferred in the account of son of the petitioner, whereas as per disclosure statement of Dinesh Kumar Bansal he had carried out the work for about 52-54 crores in 3 villages out of which he had earned 8-10 crores illegally and had also paid the share to number of persons including the petitioner. The alleged allegation of payment of Rs.9,50,000/- to the son of the petitioner in his account is found to be incorrect as the prosecuting agency has changed its stand that in fact the amount was paid in cash and the reference of which finds mentioned in the diary maintained with Dinesh Kumar Bansal.

*Learned counsel with reference to Section 34 of the Evidence Act and paras 30 and 33 of **Central Bureau of Investigation vs. V.C. Shukla 1998(2) RCR (Criminal) 17** submits that maintaining a diary in the context of the aforesaid allegations with random entries with some other details would be debatable. Case needs further arguments in detail.*

Adjourned to 19.05.2023.

In the meanwhile, the petitioner will appear before the Investigating Officer within 10 days from today and in the event of doing so, he shall be allowed to join the investigation to the satisfaction of Investigating Officer. In the event of his arrest, he shall be enlarged on interim bail subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the Arresting Officer. However, petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Granting of interim protection shall not be construed to be an opinion on the merits of the case and would not create any equitable consideration at the time of deciding the petition on merits.”

(9) It is acknowledged by learned State Counsel on instructions that in pursuance of the aforesaid order, petitioner has already joined the investigation.

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(10) The Investigating Officer was/is well empowered to verify the bank details of the petitioner or account(s) of Gram Panchayat and/or of any other person(s) acquainted with the facts of present case; but he (petitioner) cannot be denied the concession of pre-arrest bail on the flimsy ground that money which was allegedly mis-utilized, during January, 2021 to November, 2021, is yet to be recovered.

(11) In view of the above, present petition is allowed; interim order dated 29.03.2023 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) It is clarified that in case there is recurrence on the part of the petitioner, State would be at liberty to move an appropriate application for recalling of this order.

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

6th August, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes