

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

CRM-M-16038-2024
Decided on: 15.04.2024

Harjit Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Tejveer Singh Saggu, Advocate for the petitioner.

Mr. Kanav Bansal, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
11	07.03.2024	Vigilance Bureau, Range Amritsar, District Amritsar	13(1)A r/w 13(2) (wrongly mentioned as 12(2) in the order dated 19.03.2024) of Prevention of Corruption Act and Sections 409, 420, 201, 120B IPC

1. The petitioner apprehending arrest in the FIR captioned above, has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. Vide order dated 03.04.2024, State was asked to file reply and this Court had granted interim bail to the petitioner and the said order is continuing till date.
3. Petitioner’s counsel submits that the only allegation against the petitioner is that he was witness to the report made by Gurmej Singh Sarpanch regarding loss of record. He further submits that the petitioner has joined the investigation and cooperated in the recovery. Counsel further submits that custodial interrogation and pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. Counsel for the State on instructions from ASI Sachdev Singh, does not dispute the above said contention but opposes the bail.

5. Prosecution's case is being taken from the reply dated 09.04.2024, which reads as follows:-

"3. That the brief and relevant facts of the case are that the aforesaid FIR No. 11 dated 07.03.2024 was registered against the petitioner and other co-accused as per the direction from the office of the Chief Director, Vigilance Bureau, Punjab to the office of the Senior Superintendent of Police, Vigilance Bureau, Amritsar pursuant to a suggestion made by the then Deputy Superintendent of Police, Vigilance Bureau, Unit Tarn Taran vide detailed report after verifying the allegations of the complaint dated 16.05.2017 filed by Subeg Singh son of Chanan Singh resident of village Benka, Tehsil Patti, District Tarn Taran, in the office of Chief Director, Vigilance Bureau, Punjab, by conducting Vigilance Inquiry No. 36 of 2017-Tarn Taran. The complainant Subeg Singh had alleged in his aforesaid complaint that co-accused Gurmej Singh, Ex- Sarpanch, Gurbir Singh, Member Panchayat, Jawala Singh, Sarpanch of the village Benka, Block Bhikiwind, District Tarn Taran had committed large scale misappropriations/ embezzlements in the funds/grants of the Gram Panchayat Benka by preparing false documents and destroyed the Panchayat record and illegal occupied the land of the gram Panchayat, Benka.

4. That in his aforesaid report, then Deputy Superintendent of Police, Vigilance Bureau, Unit Tarn Taran had reported that after recording the statements of the complainant, suspects and other material witnesses and examining the record/documents during the aforesaid Vigilance Enquiry, it was found that co-accused Gurmej Singh, Ex-Sarpanch, Mohinder Kaur, Member Panchayat, Lakhwinder Kaur, Member Panchayat, from the year 2008 to 2013 and Jawala Singh, Ex. Sarpanch, Gurmej Singh, Ex- Sarpanch, Lakhwinder Kaur, Member Panchayat, Gurbir Singh, Member Panchayat, Gurbaz Singh, Panchayat Secretary, Sawinder Singh (Now deceased), Panchayat Secretary, from the year 2013 to 2018 have committed misappropriation/ embezzlement to the tune of Rs. 1,66,95,153/- in connivance with each other by misusing their official powers from the total amount of Rs. 2,16,97,000/- received as grants for the development works of the village Benka, Block Bhikiwind, District Tarn Taran and Rs. 35,55,000/- received under the I.A.Y Scheme thus, they being public servants had caused wrongful loss to the tune of Rs. 1,66,95,153/- to the State Exchequer. It was further reported that the co-accused Gurmej Singh, Ex-Sarpanch along with the petitioner being Sarpanch of village Boor Chand, District Tarn Taran as witness, and co-accused Jawala Singh (since deceased) Ex-Sarpanch along with co-accused Kabal Singh resident of village Benka, District Tarn Taran, destroyed the officials record during their tenures by conspiring together and then lodged false reports in the Police station regarding the misplacement of the official records. He suggested for the registration of FIR and investigation of the case against the petitioner and aforesaid co-accused.

5. That in the meantime, co-accused Gurmej Singh, Panchayat Secretary of village Benka, District Tarn Taran filed representation dated 26.07.2021 in the office of the Chief Director, Vigilance Bureau, Punjab for fair enquiry in the matter and to examine his role thoroughly before proceeding further in the case claiming that he was being wrongly involved in the matter. The aforesaid representation was forwarded to the office of the

Senior Superintendent of Police, Vigilance Bureau, Amritsar vide Memo No. 11040/VB/AS-8 dated 21.04.2022 for the comments and clarification of the role of all the suspects involved in the case.

6. That deponent has submitted a detailed Comments Report dated 20.10.2023 in the office of the Chief Director, Vigilance Bureau, Punjab through the office of the Senior Superintendent of Police, Vigilance Bureau, Amritsar vide Memo No. 9876/Reader dated 07.11.2023 reporting therein that the co-accused Gurbaz Singh had failed to provide the relevant record relating to the expenditure of Rs. 18,31,397/- on the development works carried out by the Gram Panchayat Benka, Block Bhikiwind, District Tarn Taran out of total of Rs. 76,23,516/- received as grants by the aforesaid Gram Panchayat meant for the various development works during his tenure as Panchayat Secretary and suggested for the registration of the FIR and investigation of the case against him, the petitioner and other co-accused namely Gurmej Singh, Ex-Sarpanch, Mohinder Kaur (Member Panchayat), Lakhwinder Kaur (Member Panchayat), Jawala Singh, Ex. Sarpanch, Nirwair Singh, Gurbir Singh and Kabal Singh. Accordingly, FIR No. 11 dated 07.03.2024 under sections under sections 13 (1) (a) and 13 (2) of the Prevention of Corruption Act, 1988 read with sections 409, 420, 201 & 120-B IPC was registered at the Police station Vigilance Bureau, Range Amritsar with the approval of the office of the Chief Director, Vigilance Bureau, Punjab vide Memo No. 7909/VB/S-8 dated 28.02.2024.

7. That after the registration of the aforesaid FIR, an investigation of the case was initiated by Inspector Sharanjit Singh, Vigilance Bureau, Unit Tarn Taran, who arrested the co-accused Nirvail Singh, Gurbir Singh, Kabal Singh, Jawala Singh and Gurmej Singh on 07.03.2024 during the course of investigation.

Role of the petitioner

8. That during the investigation so far, it has been found that on 07.01.2013, the co-accused Gurmej Singh has recorded a DDR No. 22 dated 07.01.2013 in the Police station Bhikiwind, District Tarn Taran by submitting a self declaration stating therein that his bag containing record of the Gram Panchayat consisting of four proceedings registers, one receipt book, 2 cash books, accounts register, a lease book, material receipts, vouchers and bank statement had lost on the way, which could not be traced despite making best efforts by him. The said self declaration was attested by the petitioner as witness. During the investigation, it was found that the aforesaid record was not lost but it was destroyed by the co-accused Gurmej Singh with the help of the petitioner to destroy the evidence relating to the utilization of the money received by way of grants by the Gram Panchayat Benka from the Government for the development of the village during his tenure.

9. That the petitioner has joined the investigation and furnished the bail and surety bonds to the satisfaction of the deponent as per the directions of this Hon'ble court on 06.04.2024 but he did not cooperate with the investigating officer during the investigation by adopting an evasive and adamant attitude.

10. That during his interrogation during course of investigation, the petitioner has got recovered copy of the Self-declaration sworn by the co-

accused Gurmej Singh, Sarpanch and attested by him as witness, which was submitted by them in the Police station Bhikhiwind for recording of DDR No. 22 dated 07.01.2013 on wrong facts to create false evidence relating to the misplacement of the record of the village Panchayat Benka, which shows his active connivance with the co-accused Gurmej Singh for falsification of record.

11. That it is humbly submitted that the arrest of the petitioner is genuinely required for his custodial interrogation for the purpose of fair investigation of the case and to take the investigation to its logical conclusion to prove the prosecution case during the trial and in case, his bail applications is dismissed by this Hon'ble court, he will be arrested by the investigating officer. He will be Moreover, the petitioner is not entitled for the grant of pre-arrest bail on the alleged plea of non-requirement of his custodial interrogation in view of the observations of the Hon'ble Supreme court of India in Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (SC) 870, wherein, the Hon'ble Supreme court has observed as under:-

"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 ignored or overlooked and he should be granted 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 custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail."

12. That as per the record and information available at the Police station Vigilance Bureau, Unit Amritsar, the petitioner is not found involved/nominated in any other criminal case, or declared a proclaimed offender in the present case.

Present Short reply is being submitted by the deponent for the kind consideration of this Hon'ble Court and the deponent undertakes to file additional affidavit/detailed reply as per need and as per further order of this Hon'ble Court.

In view of the facts narrated above, it is prayed that the petition may be dismissed in the interest of justice."

6. I have heard counsel for the parties and gone through the petition.

7. In the entirety of facts and circumstances of the case, considering the role of the petitioner in absence of any evidence or allegations of financial or other benefits,

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petitioner makes out a case for anticipatory bail and it is neither a case of custodial investigation nor pre-trial incarceration.

8. Given above, petition is allowed and interim order dated 03.04.2024 is made absolute. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

15.04.2024
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Whether speaking/reasoned:	Yes
Whether reportable:	No.