

202 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16878-2024
Date of decision: 19.04.2024

Ajitpal SinghPetitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ghulam Nabi Malik, Advocate
for the petitioner.

Mr. Rajeev K. Takkar, DAG, Punjab.

RAJESH BHARDWAJ, J.

This is the second petition filed under Section 438 of Cr.P.C. by the petitioner praying for grant of anticipatory bail in FIR No.46 dated 06.05.2023, under Sections 409, 120-B of IPC, Section {13(1)(A) read with Section 13(2) of Prevention of Corruption Act, 1988 added later on} at Police Station Sadar Raikot, District Ludhiana (Rural).

Succinctly, the facts of the case are that the FIR was registered after an enquiry of Complaint No.999-PC-1 dated 04.04.2023 filed by Daljit Singh J.E. Sub Division Bassian Police Station Sadar Raikot, Ajitpal Singh Lineman and Chhinderpal Singh (SDO). It has been alleged that the accused in connivance with each other had drawn the electric goods for Rs. 5,65,37,355/- from the outlet store of PSPCL, Jagraon and misappropriated the same. It was alleged that Daljit Singh JE posted at Sub Division Bassian had withdrawn the goods worth of Rs.7.30 crores from PSPCL Store, Jagraon but despite various letters having been written to the Daljit Singh JE, he did not submit the account details. Thus, it was found that he had embezzled goods in which Ajitpal Singh Lineman, Gurvinder Singh CHB and Mushtaq Ali Driver were also

involved. It has been alleged that as per the office order No.14 dated 28.10.2021 Ajitpal Singh Lineman was posted as Assistant of Daljit Singh JE. Ajitpal Singh Lineman used to keep the details of the goods withdrawn from the store and other works and he used to withdraw the goods from the store. Thus, on the basis of the various allegations, the FIR was registered and the investigation commenced. Apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, Ludhiana praying for grant of anticipatory bail. However, on hearing counsel for the parties and perusing the record, learned Additional Sessions Judge, Ludhiana declined the same vide his order dated 17.05.2023. Being aggrieved, petitioner earlier approached this Court by way of filing CRM-M-26719-2023. However, after arguing at length, learned counsel for the petitioner prayed for withdrawal of the petition and hence, the same was permitted to be dismissed as withdrawn vide order dated 25.05.2023. Thus, the petitioner has again approached this Court by way of filing the present petition.

Learned counsel for the petitioner has submitted before this Court that the earlier petition was withdrawn and the same was not decided on merits. He has submitted that after withdrawal of that petition, department constituted a committee which gave its report dated 23.08.2023 and no complicity of the petitioner was found in the report. This Court directed the Senior Superintendent of Police, Vigilance to file his affidavit and the same has been filed before this Court. Learned counsel for the petitioner submits that the only allegation against the petitioner is that petitioner was posted as Assistant with the main accused Daljit Singh J.E. and he was required to prepare the account by taking details from Daljit Singh. He has submitted that Daljit Singh JE had

already been arrested and later he has been released on bail. It is submitted by counsel for the petitioner that the petitioner is working as Lineman and neither he was authorized to issue any article from the store nor to receive the same. He has submitted that the petitioner was asked to assist co-accused Daljit Singh JE in preparation of the accounts and thus, he prepared the accounts giving details of the goods issued whereas the details were to be submitted by Daljit Singh JE to the Department. It is submitted that the goods were entrusted to Daljit Singh JE and the recovery is also to be effected from him. He has submitted that no *prima facie* case is made out against the petitioner and thus, he deserves to be granted anticipatory bail.

Learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that during investigation co-accused J.E. Daljit Singh was arrested on 08.05.2023 wherein he suffered a disclosure statement and he got recovered electrical goods amounting to Rs.25,97,128/- on different dates from different places. It is submitted that at that time the said electrical goods were in custody of Daljit Singh J.E., present petitioner Ajitpal Singh Lineman and SDO Chhinderpal Singh for installation in different Villages of Sub Division Bassian. It is submitted that during investigation, the statement of various officers of the department were recorded under Section 161 Cr.P.C. and it was found that electrical goods/material amounting to Rs.7.30 crore were withdrawn from PSPCL Store Jagraon and the accused including the petitioner had misappropriated the electrical goods amounting to Rs.5,56,47,822/- and during investigation, offence under Section 13(1)(a) read with Section 12(2) of the Prevention of Corruption Act, 1988 was added in the case on 23.10.2023. He submits

that the investigation is entrusted to the Vigilance Bureau. The complicity of the petitioner as submitted is *prima facie* established as the petitioner was attached with co-accused J.E. Daljit Singh and he was assigned the duty to look after the electric goods issued from the store and for the work to be done regarding installation of the electric goods at the places where same were to be installed. He submits that it has been found during investigation that the petitioner had illegally used the Official ID No.238125 of Pritpal Singh J.E. (retired) by using his own Mobile No.96461-11739 because after the retirement of Pritpal Singh J.E. his official ID was to be closed but instead of closing the said ID of Pritpal Singh, it was deliberately used by petitioner Ajitpal Singh Lineman. He withdrew the electric goods/material from the store by forging the signatures of J.E. on store requisition/issue note (S.R.) slips. The message of withdrawing the articles went to the petitioner's mobile number rather than J.E.'s mobile number because the petitioner had filled his own mobile number in the said ID. Thus, no official came to know as to who had withdrawn the articles from the store. He submits that during investigation specimen signatures of Daljit Singh J.E. were obtained and the same were sent to FSL for comparison. Thus, specimen signatures of the petitioner are also required and hence, his custodial interrogation is necessary in the present case for the fair investigation. He has submitted that raids were conducted by the investigating agency on 06.01.2024, 09.02.2024, 28.02.2024, 15.03.2024 but the petitioner could not be arrested till date as he is evading his arrest. He has submitted that the accused is involved in the scam amounting to Rs.5,56,47,822/- and thus, there being no ground for grant of anticipatory bail, the present petition deserves to be dismissed.

Heard. On hearing counsel for the parties and perusing the record, it is apparent that the FIR has been registered on the basis of the enquiry conducted and as per the allegations, petitioner in connivance with the co-accused had illegally withdrawn electric goods from the store amounting to Rs.5,56,47,822/-. Co-accused Daljit Singh J.E. was arrested and thereafter, he was granted bail. The investigation is already in progress and the allegations against the petitioner are specific. The petitioner was attached with J.E. Daljit Singh. It has been revealed in the investigation that the petitioner had illegally used the official ID No.238125 of Pritpal Singh J.E. (retired) by using his own Mobile number. The details of the withdrawal thus, was coming on the mobile number of the petitioner as Pritpal Singh J.E. had already retired. The specimen signature of Daljit Singh J.E. has already been taken and sent to the FSL whereas that of the petitioner could not be taken as he could not be arrested till date.

For the consideration of anticipatory bail, the statutory parameters are given under Section 438(1) Cr.P.C. which reads as under:-

“Direction for grant of bail to person apprehending arrest:-

(1) Where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, inter alia, the following factors, namely:-

(i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(iii) the possibility of the applicant to flee from justice; and

(iv) *where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested,
Either reject the application forthwith or issue an interim order for the grant of anticipatory bail.”*

As per the law settled by the Hon'ble Supreme Court, in **Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632**, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would also prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable

apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

The Hon'ble Supreme Court in State Vs. Anil Sharma, (1997)

7SCC 187, held as under:-

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 favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is 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 a responsible manner and that those

entrusted with the task of disinterring offences would not conduct themselves as offenders.

There is no gainsaying that this is the second petition filed by the petitioner praying for grant of anticipatory bail. The earlier one was already allowed to be dismissed as withdrawn by this Court vide order dated 25.05.2023.

Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been *prima facie* established. Thus, granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

The Hon'ble Supreme Court in ***G.R. Ananda Babu Vs. State of Tamil Nadu, 2021(1) RCR (Criminal) 843*** has held that successive anticipatory bail applications ought not to be entertained on specious ground of 'Changed Circumstances'.

In view of the overall facts and circumstances of the case, the petitioner does not qualify for the grant of anticipatory bail and the same is hereby dismissed on both counts i.e. on maintainability being second petition as well as on merits. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

19.04.2024
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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