

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18713-2024 (O&M)
Reserved on: 03.05.2024
Pronounced on: 10.05.2024

Lakhwinder Kaur
... Petitioner(s)
Versus
State of Punjab
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Iqbal Singh Saggu, Advocate and
Mr. Tejveer Singh Saggu, Advocate
for the petitioner(s).

Ms. Swati Batra, DAG, Punjab (through VC).

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
11	7.3.2024	Vigilance Bureau Range, Amritsar, District Amritsar	13(1)A r/w 13(2) PC Act, 1988 and 409, 420, 201, 120-B IPC

1. Apprehending arrest in the FIR captioned above, the petitioner-accused who is a woman had come up before this Court seeking anticipatory bail under Section 438 CrPC.
2. Vide order dated 22.4.2024, this Court had granted interim anticipatory bail to the petitioner, which is continuing till date.
3. Prosecution’s case is being extracted from reply dated 2.5.2024 filed by the State by way of affidavit of concerned DySP, which reads as under:-
- “3. That the brief and relevant facts of the case are that the aforesaid FIR No. 11 dated 07.03.2024 has been registered against the present 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 (at that time 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. Petitioner seeks bail, firstly, on the ground that when she was Panch of the Gram Panchayat from 2008 to 2013 and thereafter, from 2013 to 2018, Sh. Gurmej Singh lodged a Rapat/DDR for loss of record i.e. account book, receipt book etc. and on the basis which, she has been made an accused in the abovesaid FIR. Case put up by the prosecution is that there is embezzlement in the funds/grants received by the Gram Panchayat, which is totally incorrect and contrary to the record. As a matter of fact, a DDR regarding the loss of record was lodged by Sarpanch, in which the petitioner being the Panch had no role, as the Sarpanch is the custodian of the record. Secondly, that one Sh. Gurmej Singh had submitted the self attested declaration certificate that the record of the Gram Panchayat which includes, four proceedings books, one receipt book, two cash books, one account register, one lease book, one master roll register, and voucher files and Bank Statement have been lost in Bhikhiwind Bazar and the petitioner had only identified Sh. Gurmej Singh while submitting the said self declaration before the Police and on the basis of which a DDR No. 22 dated 07.01.2013 was lodged. Thirdly, the allegations pertain to the year 2008 to 2013 and the DDR was registered on 07.01.2013 and the present FIR has been registered on 07.03.2024 after more than 11 years. Even otherwise also, Sh. Subegh Singh-complainant also filed a complaint before the Director, Rural Development and Panchayat, Punjab regarding the misappropriation of funds of the Gram Panchayat and the inquiry into the same was conducted by the Sub Divisional Officer, Panchayati Raj, Public Works Department and Sh. Gurmej Singh-Former Sarpanch was held liable vide inquiry report dated 24.05.2018. Thereafter, Sh. Gurmej Singh-Former Sarpanch of Gram Panchayat, Bainka submitted an application to the Director Rural Development and Panchayat, Punjab, for holding an inquiry into the allegations leveled against him by associating him in the inquiry and the Director got the same inquired into by the District Development and Panchayat Officer, Amritsar, who submitted his inquiry report vide letter No. 2789 dated 08.07.2022 and held that no allegation of embezzlement has been proved against Sh. Gurmej Singh- Sarpanch and as such, the complaint filed by Subegh Singh-Complainant was dismissed vide order dated 24.11.2022. Lastly, that no offence has been made out against the petitioner, as no allegation of any embezzlement or misappropriation has been leveled against her. The petitioner was the Panch of Gram Panchayat Bainka from 2008 to 2013 and she has been implicated only on the ground that she has conspired while lodging the DDR dated 07.01.2013 for loss of record in order to hide the embezzlement for which petitioner was also responsible.

5. State’s counsel opposed the bail and refers to paragraph no.9 of the reply, in which the concerned DySP has found the role of the petitioner in following terms:-

“Role of the petitioner

9. That during the investigation so far, it has been found that the petitioner being a Member Panchayat of Gram Panchayat Benka from 2008 to 2013 and thereafter from 2013 to 2018 had conspired and connived with the co-accused Gurmej Singh (Ex-Sarpanch), Jawala Singh (Ex. Sarpanch), Gurbir Singh (Member Panchayat), Mohinder Kaur (Member G Panchayat), Sawinder Singh (Now deceased) (Panchayat Secretary) and Gurbaz Singh (Panchayat Secretary) had signed the resolutions of the Gram Panchayat Benka relating to the proposals and executions of various development works in the village and misappropriation/ embezzlement to the tune of Rs. 1,66,95,153/- from the year 2013 to 2018 was committed by all of them 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 Indra Avas Yogna Scheme. Thus, they being public servants had caused wrongful loss to the tune of Rs. 1,66,95,153/- to the State Exchequer.”

Reasoning:

6. The petitioner was granted interim protection on 22.4.2024 and in the interregnum, there is no allegation that she had hampered the investigation, or despite being called to join the investigation, she did not appear before the investigator. An analysis of the abovesaid arguments point out that the incident in question pertains to the year 2013 and more particularly, considering the role of the petitioner and the fact that she is a woman, this Court does not deem it appropriate to send her for pre-trial custody.

7. Given the penal provisions coupled with the *prima facie* analysis of the nature of allegations, role of the petitioner and the other factors peculiar to this case, there would be no justifiability for pre-trial incarceration at this stage.

8. Given above, the present petition is allowed and interim order dated 22.4.2024 is made absolute. All pending applications, if any, stand disposed of.

9. However, it is clarified that the petitioner shall cooperate with the investigating agency. It is further clarified that one of the main reasons for granting bail to the petitioner is that she is a woman and as such, the other accused shall not be entitled to seek bail claiming parity with her.

(ANOOP CHITKARA)
JUDGE

May 10, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No