

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.20923 of 2023
Date of decision: 5th January, 2024

Gurmail Singh
... Petitioner
Versus
State of Punjab
... Respondent

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Amandeep Singh, Advocate for the petitioner.
Mr. APS Tung, Deputy Advocate General, Punjab
for the respondent/State.
Mr. Rajesh Duhan, Advocate for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 438 Cr.P.C. in case FIR No.63 dated 11.03.2023 under Sections 408, 420 IPC registered at Police Station Patran, District Patiala.
2. Learned counsel for the petitioner has filed short affidavit of the petitioner today in the Court, which is taken on record subject to all just exceptions and a copy thereof supplied to the counsel opposite. Learned counsel has reiterated that out of the alleged total amount of ₹26.00 lacs, ₹ 11.00 lacs has already been deposited in the account of the complainant Cooperative Society after getting the amount recovered from the members of the Society itself. In support, learned counsel has drawn the attention of this Court to Annexure P-6, which is a copy of the bank

statement of the Cooperative Society pertaining to the period with effect from April 2022 to March 2023.

3. Learned State counsel, on instructions from HC Gursewak Singh, has not disputed the submissions made by learned counsel for the petitioner. It has also not been disputed that in compliance of the order dated 09.05.2023, the petitioner has joined investigation and cooperated with the investigating agency and that the petitioner is not required for further investigation much less for his custodial interrogation.

4. Learned counsel appearing on behalf of the complainant has, however, opposed the prayer and submissions made by the learned counsel for the petitioner for extending the concession of bail to him. It has been submitted that the petitioner has embezzled a huge amount in the sum of ₹ 26.00 lacs and hence, he does not deserve to be extended the concession of bail.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. The Hon'ble Supreme Court in '**Ramesh Kumar vs. The State of NCT of Delhi**' 2023 LiveLaw (SC) 496, has expressed concern over conditions imposed, such as, deposit of some amount, for being granted bail, since the criteria for granting bail is well established and monetary commitments should not sway the decision of a Court while deciding a bail petition. The Apex Court has further cautioned against the

process of criminal law being utilized for recovery of money, particularly while opposing the prayer for bail. The criminal proceedings cannot become a forum for realization of dues and grant or refusal of anticipatory bail must be on the merits of the case.

7. In view of the facts and circumstances as enumerated hereinabove, the petitioner deserves to be extended the extraordinary concession of anticipatory bail. Accordingly, the petition is allowed and the interim order dated 09.05.2023 is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the bail granted to him.

(MANJARI NEHRU KAUL)
JUDGE

January 05, 2024
rps

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