

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20642-2024
Date of decision : 25.04.2024

SANJEEV KUMARPetitioner

Versus

STATE OF PUNJAB ...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Kuldip Singh, Advocate for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

Apprehending his arrest in FIR No.169 dated 10.12.2021, registered for offences punishable under Sections 419, 420 of the Indian Penal Code, 1860 at Police Station Navi Baradari, District Jalandhar, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

2. As per the contents of the FIR it has been alleged as under :

xxxx Regarding the embezzlement done by candidate Harjinder Singh son of Sham Singh, Roll No.2151880151 during the recruitment of Constable cadre in Punjab Police. Sir, I, Surjit Singh PPS No.32/J.R. is posted at 75th Battalion PAP Jalandhar Cantt. Punjab Government has executed a contract with T.C.S. company, Plot No.28, HDFC Bank, Industrial Area, Phase-5, Sector-28/C, Digital Zone, Chandigarh for recruitment of Constable in Punjab Police. The trials of candidates are being conducted at PAP Ground, Jalandhar Cantt. regarding this recruitment and my duty is posed as Incharge on regarding this recruitment. Biometric desk

Today on 10.12.2021, I along with my staff was posted on duty and employees of TCS company which was matching the thumb impressions and photos of candidates with the data already stored in the system. At about 12:29 PM, Biometric Manager TCS company told me that candidate Harjinder Singh son of Sham Singh, resident of Khundar Hithar, Ferozepur has handed over his Admit card Roll No.2151880151 to him. Upon which, he has opened the page on computer biometric desk then photo of candidate was clicked for matching with the photo affixed on the admit card stored in the system and got his left thumb impression on biometric machine. After checking on the system, computer system has given the report regarding non-matching of face and thumb impressions of candidate Harjinder Singh (candidate not verified). It has been found from verification regarding report given under his signatures by the Biometric Incharge that candidate Harjinder Singh son of Sham Singh, resident of Khundar Hithar, Ferozepur Roll No.2151880151 had filled the online form for appointment as Constable in Punjab Police and after filling the form, during this appointment, on 25.09.2021, written test was executed. On the day of written test, candidate Harjinder Singh son of Sham Singh resident of Khundar Hithar, Ferozepur has given the test by sending someone else on his place. On the day of written test, finger print, thumb impressions/signatures and photo was taken of that unknown person. Today, on the day of physical test, on getting the finger printer, thumb impressions, signatures and photograph of above said candidate Harjinder Singh, it was not matched. From which it is clearly proved that this person had sent somebody on his place for execution of written test with the intention of appointment with dishonesty, investigation of the same is necessary. In this regard, appropriate legal action be taken against this candidate Harjinder Singh son of Sham Singh xxx”

3. The precise allegation against the petitioner is that he impersonated his brother in the recruitment examination. The same was discovered after biometric impression of the brother did not match.

4. I have heard counsel for the parties and have gone through records of the case.
5. As per settled law laid down by Apex Court in **Gurbaksh Singh Sibbia vs. State of Punjab, 1980 (2) SCC 565**, reiterated in **Sushila Aggarwal and others Vs. State (NCT of Delhi) and another, 2020 (5) SCC 1** the Court while considering prayer for pre-arrest bail has to consider as to whether the accusation appears to be actuated by *mala fides*, nature of seriousness of the proposed charges, the role attributed to the applicant and the probabilities of securing presence of the applicant during the course of trial and as to whether there is any apprehension that the applicant will tamper with the witnesses or evidence.
6. It is the aforesaid considerations which need to be balanced by the Courts while considering grant of pre-arrest bail.
7. Keeping in view the seriousness of the allegations levelled against the petitioner, this Court does not find it to be a case for grant of discretionary relief of pre-arrest bail.
8. Accordingly, the petition is dismissed.

April 25, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No