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209 (8th case)

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-29012-2024 (O&M)
Date of decision: 06.08.2024**

Karamjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Ms. Khushika Setia, Advocate for the petitioner.

Mr. D.S.Brar, Sr. D.A.G., Punjab for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.12 dated 26.05.2022 (P-1), under Sections 406, 420, 409, 465, 467, 468, 471, 120-B of the Indian Penal Code, 1860 (Section 201 IPC added later on); Section 13 (1) (A) read with Section 13(2) of the Prevention of Corruption Act, 1988 as amended by Prevention of Corruption (Amendment) Act, 2018, registered at Police Station Vigilance Bureau Patiala, District Patiala.

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(2) Above FIR was registered by complainant-Satpal Singh, DSP, Vigilance Bureau Range Patiala with the allegations that by showing fake development works of panchayat, Rs.6,66,47,036/- was embezzled by the office bearers of Gram Panchayat “Aakri” and Gram Panchayat “Sehri” in connivance with other co-accused.

(3) Learned Counsel contends that petitioner was granted interim bail by the Coordinate Bench, vide order dated 31.05.2024 and in pursuance thereof, he has already joined the investigation; thus, his custodial interrogation is not required. Also contends that although, it is the objection of prosecution that some money is yet to be recovered; but that cannot be a ground to deny the pre-arrest bail.

(4) *Per contra*, learned State Counsel, on instructions, objected the prayer on the premise that certain amount is yet to be recovered.

(5) Heard learned Counsel for the parties and perused the paper-book.

(6) It is not in dispute that petitioner was granted interim bail by the Coordinate Bench, vide order dated 31.05.2024 and the order reads as under:-

“Inter alia, contends that the petitioner is not named in the FIR although 27 persons have been named in the same and no role has been ascribed to the present petitioner. It is submitted that in the final report dated 23.08.2022, as many as 15 persons were made accused and the petitioner was not named as an accused in the challan and it is only after a period of almost two years that the petitioner is sought to be implicated in the present case on the allegations that the petitioner had accepted compensation @ Rs.9 lakhs per acre total amounting to

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Rs.23,85,000/-. It is further submitted that the petitioner came into possession of land in question by way of auction conducted by the gram panchayat and several other persons had also participated in the said auction and the petitioner was the highest bidder and the said auction has not been challenged till date and regarding the same a reference has been made to the Chakotanama, which has been annexed as Annexure P-2. It is stated that the amount paid to the petitioner was in pursuance of the Policy of State Government, which has also not been challenged till date and the present petitioner is not a public servant and is neither an employee of the panchayat smiti nor of any other department of the government and thus, no offence under the Prevention of Corruption Act is made out against the petitioner. It is further stated that co-accused of the petitioner, namely, Madan Lal @ Madan Lal Jalalpur, who is stated to be one of the prime accused, has been granted the concession of interim anticipatory bail by a Co-ordinate Bench of this Court vide order dated 29.03.2023 (Annexure P-3). It is submitted that another co-accused, namely, Jasvir Chand, Panchayat Secretary, has also been granted the concession of anticipatory bail by the Hon'ble Supreme Court, vide order dated 28.07.2023 and co-accused Charanjit Kaur and another have also been granted the concession of interim protection vide order dated 14.09.2023 and the case of the present petitioner is on a better footing than that of the above-said persons.

Notice of motion for 03.07.2024.

To be heard along with CRM-M-14983-2023.

Till the next date of hearing, in the event of arrest, the petitioner is ordered to be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

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Grant of interim protection shall not be construed to be an opinion on the merits of the case and would not create any equitable consideration in favour of the petitioner at the time of deciding the present petition on merits.”

- (7) It is acknowledged by learned State Counsel on instructions that in pursuance of the aforesaid order, petitioner has already joined the investigation.
- (8) The Investigating Officer was/is well empowered to verify the bank details of the petitioner or account(s) of Gram Panchayat and/or of any other person(s) acquainted with the facts of present case; but he (petitioner) cannot be denied the concession of pre-arrest bail on the flimsy ground that money which was allegedly mis-utilized, during January, 2021 to November, 2021, is yet to be recovered.
- (9) In view of the above, present petition is allowed; interim order dated 31.05.2024 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
- (10) It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
- (11) The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
- (12) It is clarified that in case there is recurrence on the part of the petitioner, State would be at liberty to move an appropriate application for recalling of this order.

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Pending application(s), if any, shall also stand disposed off.

6th August, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes