



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

CRM-M-30046-2024 (O&M)

Date of decision: 06.08.2024

Rajesh Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Arjun Kapur, 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.

(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

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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 18.06.2024 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 18.06.2024 and the order reads as under:-

“Inter alia, contends that the petitioner is not named in the FIR and no role had been ascribed to him and in the FIR as many as 27 persons were named. It is submitted that on concluding of investigation, the final report was prepared on 23.08.2022 against 15 persons and there was no material which surfaced against the present petitioner and that it is after an inordinate delay of two years of the registration of the FIR and the presentation of challan, that the petitioner has been roped in on account of suspicion on the allegation that the petitioner had misused his powers while working as a Panchayat Secretary. It is further submitted that in the present case, an enquiry report dated 27.05.2022 was submitted, in which 36 persons were held liable for embezzlement, but the name of the petitioner did not figure in the same and that the departmental inquiry was also

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initiated against the present petitioner and vide order dated 09.12.2022 (Annexure P-6), the charge-sheet dated 10.05.2022 issued to the petitioner and another co-accused was filed as no allegations were proved against them. It is stated that the Panchayat Secretary does not play any role in the decision regarding release of payments and that one Jasvir Chand, who is also a Panchayat Secretary and was indicted by the SIT, has been granted the concession of anticipatory bail by the Hon'ble Supreme Court, vide order dated 28.07.2023 (Annexure P-8). It is further stated that even Madan Lal @ Madan Lal Jalalpur, the erstwhile MLA, who was also made an accused, has also been granted the concession of interim anticipatory bail by a Co-ordinate Bench of this Court vide order dated 29.03.2023 (Annexure P-9). It is submitted that the entire case is based on documentary evidence 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.

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.

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(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 18.06.2024 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.

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

6th August, 2024
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes