



In the High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-30247-2024 (O&M)
Date of Decision:-21.8.2024

Ashwani Kumar ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. B.S. Aulakh, Advocate,
for the petitioner.

Mr. Inderjeet Singh Ladher, DAG, Punjab,
assisted by ASI Hakam Singh.

Mr. Babu Singh Sidhu, Advocate,
for the complainant.

FIR No.	Dated	Police Station	Section/s
88	18.5.2024	Sadar Sri Muktsar Sahib	408 of Indian Penal Code

GURVINDER SINGH GILL, J. (Oral)

1. The instant petition has been filed on behalf of the petitioner seeking grant of anticipatory bail in respect of aforementioned FIR.
2. At the time of issuance of notice of motion, the following order was passed on 20.6.2024:

“Inter alia contends that the petitioner was working at J.D. College of Education at Shri Muktsar Sahib as a computer operator and was dealing with three departments but had a meager salary of Rs.7500/- and the same was later on increased to Rs.9000/- and the petitioner had



requested the college to increase his salary to Rs.30,000/- as he was doing the work of four persons and since the authorities did not accede to his request, thus, the petitioner gave one month's prior notice of his resignation on 01.03.2023 (Annexure P-2). It is submitted that thereafter, the Principal and the Chairman of the college had promised to pay Rs.21,000/- to the petitioner by paying Rs.10,500/- in the account of the petitioner and Rs.10,500/- was to be paid in cash and thereafter, the students fees was deposited in the account of the petitioner with the consent of the Principal and the Chairman. It is further submitted that subsequently the college refused to adjust the said amount and asked the petitioner to repay the entire amount of fee deposited and thus, the petitioner gave a letter dated 03.04.2024 (Annexure P-3) and the petitioner was issued a 'no due slip' and thereafter, the petitioner left the job. Learned counsel for the petitioner has submitted that a total amount of Rs.1,35,000/- was deposited in the account of the petitioner out of which the petitioner has already paid Rs.85,000/- and in order to show his bonafide and without admitting his guilt, the petitioner is ready to pay Rs.50,000/- to the complainant College within a period of three weeks from today. Notice of motion for 21.08.2024.

In the meantime, 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.

The petitioner is directed to prepare a demand draft of an amount of Rs.50,000/- in the name of the complainant college and hand over the same to the Investigating Officer within a period of three weeks from today and the Investigating Officer is directed to hand over the same to the complainant college after taking receipt from the complainant college.

It is made clear that in case the demand draft of the said amount is not handed over to the Investigating Officer within a period three weeks from today, then the interim order granted is liable to be vacated. The payment of Rs.50,000/- to the complainant college would not be construed as an admission of guilt by the petitioner.”



3. Learned counsel representing the petitioner submitted that in compliance of order dated 20.6.2024, the petitioner has deposited a demand draft of Rs.50,000/- with the complainant/college. A copy of the same has been furnished to this Court, which is taken on record.
4. Learned State counsel, upon instructions from ASI Hakam Singh has informed that pursuant to interim directions, the petitioner has since joined investigation. However, learned State counsel as well as learned counsel for the complainant have both opposed the petition on the ground that the total amount embezzled is somewhere to the tune of Rs.9 lakhs and that during the course of investigation, it transpired that the petitioner had not been depositing the fee collected from the students and who have already made statements to this effect. Learned State counsel submits that since the aforesaid amount is yet to be recovered, no case for grant of anticipatory bail is made out.
5. This Court has considered rival submissions addressed before this Court.
6. Although the allegations pertain to embezzlement of an amount of Rs.9 lakhs, but this Court finds that the aforesaid amount of Rs.9 lakhs is stated to have been mainly paid by way of cash. The veracity of such allegations would be determined during the course of evidence. The petitioner is otherwise stated to have joined investigation. The petitioner cannot be declined the relief of anticipatory bail solely on the ground that the amount allegedly embezzled has not been recovered.
7. Having regard to the broad facts and circumstances of the case, in my opinion, it is a fit case for grant of anticipatory bail. The instant petition, as



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such, is accepted and the interim directions issued by this Court vide order dated 20.6.2024 are hereby made absolute, subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438(2) Cr.P.C.

21.8.2024
Geeta

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No