



CRM-M-30637-2024

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

CRM-M-30637-2024

Date of decision: 29th July, 2024

Sanjay Lekhi

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

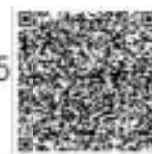
CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. K.S. Dhanora, Advocate for the petitioner.

Mr. A.S. Samra, AAG, Punjab.

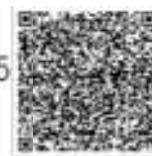
MANISHA BATRA, J (ORAL):-

The petitioner has sought indulgence of this Court by filing this petition under Section 438 of the Code of Criminal Procedure seeking relief of anticipatory bail in case arising out of FIR No. 61 dated 09.07.2022 registered under Sections 409, 167, 420, 465, 467, 468, 471 of IPC, 1860 at Police Station Division No.1, Ludhiana, District Police Commissionerate, Ludhiana on the basis of a written complaint submitted by complainant Abhilasha Gupta alleging therein that the petitioner who was working as a Clerk in Zone-A of Municipal Corporation, Ludhiana had connived with other police officials and agent Pawan Garg and made an entry with regard to the ownership of property bearing No. B-X1-1453/2 situated at Ruri Mohalla thereby transferring the ownership of this property in the name of co-accused Ekta Kashyap, though no sale deed was executed in her favour



qua the abovesaid property. Allegations that the petitioner alongwith the co-accused had tampered with the record of the Municipal Corporation and had caused financial loss to the tune of crores of rupees, had also been levelled and prayer was made for taking action. Inquiry was conducted before registration of FIR and it transpired that the petitioner in-conivance with accused Amit Bhatia, Ekta Kashyap and agent Pawan Garg got entries made in the record of the Municipal Corporation regarding ownership of the property in question in the name of Ekta Kashyap, wife of accused Amit Bhatia. The accused Ekta Kashyap and Amit Bhatia also obtained TS-1 by procuring the seal of Municipal Corporation. Investigation proceedings have been initiated and are under way. Apprehending his arrest, the petitioner had knocked at the doors of the Sessions Court but his application for grant of pre-arrest bail had been dismissed by Additional Sessions Judge, Ludhiana on 22.02.2024.

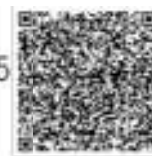
2. It is argued by learned counsel for the petitioner that he had remained posted as Clerk in Zone-A of Municipal Corporation, Ludhiana only for a short period of approximately half day i.e. from afternoon of 26.12.2019 till the morning of 27.12.2019 and was again transferred in the Recovery Section on 27.12.2019. He had no link with the co-accused or the complainant. The document TS-1 did not contain his signatures or writing. He has been falsely implicated in this case. He is very much ready to join the investigation. His custodial interrogation is not required. Neither any recovery is to be effected from him. As such, it is urged that he deserves to be extended benefit of pre-arrest bail.



3. Status report has been filed by the respondent-State. Learned State counsel has vehemently argued that after conducting detailed inquiry in the matter by the Joint Commissioner (K) Municipal Corporation, Ludhiana before the registration of FIR, It was revealed that the document TS-1 qua the property named in the complaint was entered without there being in existence any document of ownership in the name of the transferee Ekta Bhatia. The co-accused Pawan Garg had got transferred this property from the name of Amit Bhatia to the name of co-accused Ekta Kashyap. The book/register containing TS-1 was in possession of the petitioner and the requisite TS-1 with regard to the disputed property as well as 49 other TS-1 forms were found missing from the said book. It was even revealed that the property in question fell within the zone-A but TS-1 issued in this regard was bearing seal of Zone-C. Forged documents were used for transfer of ownership. The complicity of the petitioner in the subject crime was *prima facie* established on the basis of inquiry so conducted. The custodial interrogation of the petitioner is must for the purpose of eliciting the truth. Therefore, it is argued that the petition does not deserve to be allowed.

4. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

5. The petitioner who was posted as a Clerk in the office of Municipal Corporation, Ludhiana is alleged to have hatched a conspiracy with the co-accused and in pursuance of that criminal conspiracy Form TS-1 pertaining to the property bearing No. B-XI-1453/2 situated at Ruri Mohalla,



Ludhiana was issued in the name of co-accused Ekta Kashyap by transferring the same from the name of co-accused Amit Bhatia who is husband of Ekta Kashyap. Apparently this was done to evade the payment of Government Exchequer/requisite expenses of the registration and with intent to cause financial loss to the Government. As per the status report, 49 copies of TS-1 from the book containing pages/leaves starting from Sr. No. 972101 to 972200 were found to be missing and this book was in possession of the petitioner. The co-accused Amit Bhatia and Ekta Kashyap have not been able to give any satisfactorily reply about the manner in which they had procured Form TS-1 without producing any proof of ownership. Seal of Municipal Corporation is also shown to have used in an illegal manner on this document. The allegations against the petitioner are serious in nature and thorough investigation is required for eliciting the truth. It is well settled that custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. Many useful information can be disinterred during custodial interrogation. It is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. The judicial discussion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation, possibility of applicant fleeing from justice and other factors to decide whether it is a fit case for grant of



anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

7. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

29th July, 2024

Parveen Sharma

1. <i>Whether speaking/ reasoned</i>	:	<i>Yes / No</i>
2. <i>Whether reportable</i>	:	<i>Yes / No</i>