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

CRM-M-31676-2024
Reserved on: 06.08.2024
Pronounced on: 30.08.2024

Shubham ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Onkar Singh Batalvi, Advocate
Mr. Sourabh Kaushik, Advocate
Mr. Ashish Gaur, Advocate and
Mr. Daman Batala, Advocate
for the petitioner(s).

Mr. Vikrant Pamboo, Sr. DAG, Haryana (Through VC).

Mr. Sunil Chaudhary, Advocate (Through VC)
For the complainant.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
601	30.11.2023	City Bhiwani	409, 420, 467, 468, 471, 120B IPC (Sections 7A, 13(1) of Prevention of Corruption Act and 201 IPC added later on)

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.

2. In the bail petition, the petitioner is silent about criminal antecedents.

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

> *"That brief facts of the case are that the present FIR No. 601 Dated 30.11.2023 11.2023 was launched at the instance of Dalbir Singh Phogat Resident of Bahadurgarh, Haryana. In his complaint, complainant alleged that he had open an account in post office Bhiwani through agent Leela Krishan Mehta on date 12.09.2017and he deposited a sum of Rs. 22 lakhs in his account. That his money was embezzled and misappropriated by Leela Krishan with the help of post office officials by hatching conspiracy by forging his signatures. He also alleged that money of some other persons was also misappropriated by the culprits, so, a prayer to set a criminal law in motion has been made. On the basis of this information,*

the instant FIR was registered against the accused persons under Sections 120B, 409, 467, 468 and 471 of Indian Penal Code (Sections 7A,13(1) of prevention of corruption Act and Section 201 IPC added later on). The true translated version of FIR is already on file as Annexure P-1."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the reply.

6. State's Counsel explicitly refers to the following portions of the reply, which read as follows:

"3. That after registration of FIR, the investigation was set in to motion and during investigation, record of account of complainant was obtained and as per record It was found that the signatures on the disputed documents pertaining to complainant were mismatched. The CFSL report of account no. 010005241270 of complainant from which a sum of Rs. 14,99,946 was transferred was obtained taken into police record. Transactions details of all three accounts were obtained details of post office officials who authorised suspicious transactions of complainant accounts were obtained during investigation it was found that post office officials hatched conspiracy with urgnts for undue advantages and accordingly sections 7A, 13(1) PC Act were added.

x x x x

5. That during investigation on 17.04.2024 sanction under Section 17A of PC Act was received regarding accused Roshan Lal and Bharat Ram That during investigation, accused Roshan Lal was arrested in this case is 22.04.2024 after finding cogent evidence against him and in accordance with law. Accused Roshan Lal suffered his disclosure statement admitting his guilt of commission of offence. That during investigation, upon demarcation of accused Roshan Lal, accused Jogender @ Joni (brother of present petitioner) was arrested on 23.06.2024. Amount of Rs. 51,700 was to be recovered accused Roshan Lal and where abouts of accused Veer Singh was to be discovered but his further police remand was declined by the Ld. Illaqa Magistrate. Section 201 1PC was added. Accused Jogender @ Joni who is the brother of the present petitioner, suffered his disclosure statement which is annexed herewith as Annexure R-1, wherein he stated that my father was working as post office agent and his mother Usha Devi and his wife Tripta was also post office agent. Post office officials usually used to visit his house and his mother and brother also used to visit the house of post office officials in connection with commission My father used to keep blank pass books and stamp of post office. With the help of post office officials and by using these pass books and stamps my father misappropriated more then Rs. 3.5 crore and in all these deeds officers of the post office helped by my father. He further stated that his father and his family members invested this money in property and other sectors. My mother Usha Devi and brother Shubham (present petitioner) can tell about the embezzled amount as my brother Shubham (present petitioner) has invested the money in property.

6. That during investigation it was found that accused Leela Krislan Mehta was expired on 15.01.2023.

7. That during investigation account details of present petitioner was obtained and it has came that the present petitioner has deposited more then Rs. 10 lakhs in cash in his account between the period of 2020-2021 and which was the relevant time when the money of present complainant was embezzled. During investigation another victim Vijay Pal produced a copy of writing, written by Shubham (present petitioner) wherein he admits that he has to pay a sum of Rs. 65 lakhs to Vijay Pal which was embezzled through post office and he will pay Rs. 17 lakhs till 3rd date and in lieu of that amount he is giving his car no. HR16W5264. The copy of the writing was taken into police possession vide separate memo. The copy of the same and its true translated version is annexed here with as Annexure R-2."

7. The complainant's counsel opposes bail and submits as follows:

"2. That all the accused persons in conspiracy and connivance with each other prepared false passbooks/fake passbooks and stamps and embezzled Rs. 22 lacs of the complainant. It is further submitted that all the accused persons in this FIR had not only duped the amount of complainant rather they have usurped/duped the amount of many persons and police of PS City Bhiwani has registered 3 more FIRS against the accused persons and the same are:

(i) FIR no. 324 dated 18.07.2024 u/s 406, 420, 467, 468, 471 and 506/120B of IPC, registered at PS City Bhiwani on the statement of Shiv Kumar son of Giyani Ram, resident of Ambedkar Colony, Bhiwani and all the accused persons usurped an amount of Rs.2,30,000/-, 2,11,000/-, 50,000/ i.e. total amount of Rs. 5,41,000/-. A copy of the FIR No. 324 dated 18.07.2024 is annexed herewith as ANNEXURE C-1.

(ii) FIR no. 325 dated 18.07.2024 u/s 406, 420, 467, 468, 471 and 506/120B of IPC, registered at PS City Bhiwani on the statement of Vijaypal Singh son of Sh. Parkash Chander, resident of house no. 320, New DC Colony, Bhiwani and all the accused persons usurped an amount of Rs.65 lacs. A copy of the FIR No. 325 dated 18.07.2024 is annexed herewith as ANNEXURE C-2.

(iii) FIR no. 326 dated 18.07.2024 u/s 406, 420, 467, 468, 471 and 120B of IPC, registered at PS City Bhiwani on the statement of Babu Lal Sharma, son of Deen Dayal Sharma, resident of Dhani Gujran, Old Bus Stand Road, Naya Bazar, Bhiwani and all the accused persons usurped an amount of Rs. 11,80,000/-. A copy of the FIR No. 326 dated 18.07.2024 is annexed herewith as ANNEXURE C-3.

It is submitted that in the above mentioned 3 FIRs, all the accused persons in active connivance with each other, usurped an approximate amount of Rs. 80 lacs of the above named persons and Rs. 22 lacs of the complainant. It is further submitted that all the accused persons in active connivance with each other had not only usurp the amount tuning to more

> *than 80 lacs and Rs. 22 lacs of the complainant but they have also duped/usurped amount approximately Rs. 12 crores in all of other persons. It is further submitted by duping the people mentioned above and other persons, the accused persons are having huge financial transactions in their respective bank accounts and they have purchased various properties at various places by duping the innocent people.*
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> *3. That all the above named persons and other 20-25 persons have also made complaint to the police against these very accused, but the police has not yet registered their cases and the police is giving assurance that we are investigating the matter and those complaints are pending in the concerned police station. So taking totality of the facts and circumstances mentioned above, the complainant wants to place on record Annexure C-1 to Annexure C-3 and further prayed to this Hon'ble Court that his hard earned money of his whole life time may kindly be recovered from the accused persons. It is further prayed that in the instant case, custodial interrogation is very much necessary of all the accused persons for the recovery of fake passbooks, stamp, embezzled amount, bank transactions and the details of the properties purchased by them."*

8. The main accused was the petitioner's father. Even if the petitioner knew of his father's misdeeds, the son had no statutory or legal obligation to inform the authorities. The petitioner himself did not dupe the complainant. As such, the petitioner's custodial interrogation is not required.

9. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

10. Given the above, the penal provisions invoked coupled with the primafacie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

11. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

12. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

13. This order is subject to the petitioner's complying with the following terms.

14. ***The petitioner is directed to join the investigation as and when called by the Investigator.*** The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

15. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

16. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

17. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

18. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.