



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

**CRM-M-32526-2024
DECIDED ON: 19.11.2024**

MOHAN SINGH
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL.

Present: Mr. Gursharan Singh, Advocate
 for the petitioner.

Ms. Avneet, AAG, Punjab.

VIKRAM AGGARWAL, J (ORAL)

1. The present petition has been preferred under Section 438 of the Code of Criminal Procedure (for short 'Cr.P.C.') for the grant of anticipatory bail in case FIR No.54 dated 17.06.2024, registered under Section 409 IPC, 1860 at Police Station Payal, District Ludhiana.
2. On a complaint submitted by the Executive Officer, Municipal Council, Payal the FIR in question was registered. The allegation was that certain record of the Municipal Council, Payal went missing and the said record was with regard to some illegal occupation of land which was ear-marked for a park. It was alleged that the present petitioner who was working in the Municipal Council, Payal at the relevant time maintained that he had not received the concerned record from the previous clerk Sukhwinder Singh who has since retired wherein Sukhwinder Singh stated that he had duly handed over the record to the present petitioner. It was also alleged that there



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were alterations in the ownership record during the tenure of the present petitioner.

3. On 10.07.2024, a Co-ordinate Bench had passed the following order:-

“This petition has been filed under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.0054, dated 17.06.2024, under Section 409 of IPC registered at Police Station Payal, District Ludhiana.

Learned senior counsel appearing on behalf of the petitioner inter alia submits that the petitioner was earlier Clerk in Municipal Council, Payal. Sukhwinder Singh, who retired on 31.05.2019, handed over the charge to the petitioner and charge taking report is at Annexure P-1. No record of the civil suit titled as Bharpur Singh Versus Municipal Council, Payal. was handed over to the petitioner. Said case is of the year 2017. The petitioner was promoted as Inspector in the year 2024 and he was posted as Inspector, Municipal Council, Khanna. He handed over the charge to Kuldeep Kumar, Clerk, vide Annexure P-2. The petitioner never received any file of the case titled as Bharpur Singh Versus Municipal Council, Payal.

Notice of motion.

Ms. Manjot Kaur, AAG, Punjab, who is present in Court, accepts notice on behalf of respondent-State.

An advance copy of this petition has already been supplied to the office of Advocate General, Punjab.

Learned State seeks some time to get instructions in this case.

Adjourned to 19.11.2024.

In the meantime, petitioner is directed to join investigation as and when called by SHO/Investigating Officer and in the event of his arrest, he shall be released on interim bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Agency, subject to the following conditions as envisaged under Section 438 (2) Cr.P.C.:-

- (i) that the petitioner shall make himself available for interrogation before the investigating officer as and when required;



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(ii) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) that the petitioner shall not leave the country without prior permission of the Court concerned.

Status report, if any, be also filed in the meanwhile with a copy in advance to the counsel opposite.”

4. Learned counsel for the petitioner submits that in compliance of the aforesaid order, the petitioner has duly joined investigation and his custodial interrogation is not required. He, therefore, prays that the petition be allowed.

5. Per contra, learned counsel representing the State of Punjab has filed a status report by way of an affidavit of the Deputy Superintendent of Police, Sub-Division Payal, Police District, Khanna, District Ludhiana in the Court today which is taken on record. She submits that though the petitioner has joined investigation, one register has not been recovered from the petitioner. It has also been submitted that the assertion of the petitioner that he had not received the missing record is in contradiction to the statement made by Sukhwinder Singh who claims that all relevant documents including the register concerned had been handed over to the petitioner. She, therefore, submits that the petition for the grant of anticipatory bail be rejected.

6. I have considered the submissions made by learned counsel for the parties. As to whether the petitioner had committed some offence shall be determined at the stage of trial. There are contrary stands being taken by the petitioner and the previous employee Sukhwinder Singh who has since retired.

The petitioner has joined investigation. In the considered opinion of this



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Court, it is not a case where custodial interrogation of the petitioner is called for at least at this stage.

7. In view of the above, the present petition is allowed. The order dated 10.07.2024 passed by this Court is made absolute, subject to compliance of the provisions as envisaged under Section 438(2) Cr.P.C.

19.11.2024
Prince Chawla

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No