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

CRM-M-36625-2024

Date of decision: 01.08.2024

Paramjeet Singh @ Paramjit Singh**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. Davinder Singh Khurana, Advocate
for the petitioner.

*********RAJESH BHARDWAJ, J.**

1. Prayer in the present petition is for grant of anticipatory bail to the petitioner in case FIR No.0025 dated 10.06.2024, under Sections 408, 465, 468, 471 of the Indian Penal Code, 1860, registered at Police Station Amir Khas, District Fazilka (Punjab), during the pendency of the trial. Further prayer has been made for staying the arrest of the petitioner in the abovesaid FIR.

2. As per the facts of the case, the FIR was lodged by the Bharti Kisan Union Ekta (Ugrahan) regarding cheating with the members of farmers of Government Cooperative Society Village Chak Suvah Wala by the Secretary Paramjeet Singh and Bank Manager Kamaljeet. It was alleged that complainant-farmers had deposited their hard earned money with the bank but Secretary Paramjeet Singh and Bank Manager Kamaljeet had withdrawn the money deposited by them. They have been cheated by both of them from the last 03 years by misguiding them. They have been threatened as well by Secretary Paramjeet Singh and Bank Manager Kamaljeet in case they lodged any complaint against them.

Request was made to take legal action against both the accused. The

misappropriated/embezzled amount was found to be Rs.37,43,928/-.

3. Learned counsel for the petitioner has vehemently contended that petitioner has been falsely implicated in this case. He has submitted that the petitioner was retired on 31.03.2023 after completing his service satisfactorily. During his service period, there was no complaint whatsoever regarding any embezzlement or malpractice committed by the petitioner. However, after his retirement on the basis of false and fabricated allegations, the FIR has been registered against the petitioner. He submits that as per the Resolution dated 30.03.2023, it is evident that the record and stock was inspected and no embezzlement as alleged was reflected in the same. He has submitted that the Audit of the society was conducted upto the year 2022-23 and no embezzlement was ever found by the Audit Party. He has submitted that the amount could only be withdrawn under the signatures of the Cooperative Society and the petitioner being Secretary was not competent to withdraw the amount and hence, he had no role to play in the alleged embezzlement. He thus, submits that there being no *prima facie* case made against him, he deserves to be granted anticipatory bail.

4. Heard. After hearing counsel for the petitioner and perusing the record, it is revealed that the FIR in the present case has been registered after carrying out the enquiry by DSP Jalalabad who had concluded that the amount of Rs.37,43,928/- was misappropriated/embezzled from the society. The complainant-farmers have specifically alleged of having deposited the amount in all their fairness however, the same was found to have been withdrawn by the petitioner along with the Manager. The preliminary enquiry conducted on

the complaint filed had found a heavy amount having been embezzled by the accused in conspiracy with each other. It is hereinafter, the FIR was registered and thus, fair and free investigation is required to be conducted for the embezzled amount which is the public money. Granting anticipatory bail to the petitioner would seriously hamper the ongoing investigation.

5. For the consideration of anticipatory bail, the statutory parameters are given under Section 438(1) Cr.P.C. which reads as under:-

“Direction for grant of bail to person apprehending arrest:-

(1) Where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, inter alia, the following factors, namely:-

(i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(iii) the possibility of the applicant to flee from justice; and

(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested,

Either reject the application forthwith or issue an interim order for the grant of anticipatory bail.”

6. As per the law settled by the Hon'ble Supreme Court, in **Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632**, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the

society would also prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person

seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

7. The Hon'ble Supreme Court in **State Vs. Anil Sharma, (1997) 7SCC 187**, held as under:-

6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.

8. Weighing the facts and circumstances of the present case on the anvil of law settled, this Court is of the opinion that the custodial interrogation of the petitioner is very much essential to bring the truth on record and as such, petitioner does not qualify for exercising the

extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

01.08.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No