2024:PHHC:114152

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

207 **CRM M-36956 of 2024 (O&M)**
Date of Decision: 30.08.2024

Sukhpal Singh ...Petitioner

Versus

State of Punjab ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Ms. Devyani Sharma, , Advocate with
Mr. Anil Sharma, Advocate, for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 of the Bhartiya Nayaya Suraksha Sanhita 2023 with a prayer to grant anticipatory bail to him in case FIR No.11 dated 12.04.2024 registered under Section 408 IPC (Now Section 316(4) of Bhartiya Nayaya Sanhita 2023) at Police Station State Crime, Mohali.

2. The FIR in the present case was registered on the basis of the complaint filed by Jagjit Singh, President of Multipurpose Agriculture Cooperative Society, Ayali Khurd, and the same has been reproduced below:-

> *"Received a letter bearing No. 1047/CC-1 dated 12/04/2024 by the Office of Director, Bureau of Investigation, Punjab, Chandigarh along with*

investigation report by Assistant Inspector General Police, Crime Zonal, Amritsar bearing No. 453/Reader dated 03/04/2024 marked with No. 134/R/AIG/State Crime dated 12/04/2024 of the office of A.I.G., State Crime, S.A.S. Nagar and it is written "SHO State Crime for Registration of FIR" signed by A.I.G., State Crime, S.A.S. Nagar which was marked with Police Station Diary No. 143/Diary/PC/SC dated 12/04/2024.

Subject of above mentioned letter is "From: Director, Bureau of Investigation, Punjab, Chandigarh, To: Assistant Inspector General Police, State Crime, Phase-4, S.A.S. Nagar, No. 1047/CC-1 dated 12/04/2024, Subject: Regarding embezzlement committed in the Ayali Khurd Multipurpose Agriculture Cooperative Society Limited, village Ayali Khurd. Reminder Letter with regards to subject referred above.

2. With regards to above application, investigation was got conducted by this office from Assistant Inspector General Police, Crime Zonal, Amritsar whose investigation report No. 453/Reader dated 03/04/2024 after being checked and approved by this office, is sent to you in original mentioning that case to be registered and proceeded as per law against Sukhpal Singh S/o Nirmal Singh R/o village Ayali Khurd under Section 408 IPC. If some other facts are found during investigation, then appropriate Sections to be accordingly added in the complaint. Signed: A.I.G., Complaint Cell, for Director, Bureau of Investigation, Punjab, Chandigarh. After going through the letter and record, through the Order No. 3912/CC-1 dated 20/10/2023 of Director, Bureau of Investigation, Assistant Inspector General Police, Crime

Zonal, Amritsar was directed to examine the complaint of Shri Jagjit Singh, President, the Ayali Khurd Multipurpose Agriculture Cooperative Society Limited, village Ayali Khurd and submit the report within 30 days and on the basis of these orders, the investigation on the application of Shri Jagjit Singh, President, The Ayali Khurd Multipurpose Agriculture Cooperative Society Limited, Village Ayalı Khurd was conducted through Sh. Sanjeev Kumar, D.S.P., Crime Zonal, Amritsar.

The contents of application are "To, Hon'ble Director General of Police, Bureau of Investigation, Punjab, Chandigarh, Subject: Application for registering F.I.R. under the appropriate sections and to take strict legal action for embezzlement committed at the Ayali Khurd Multipurpose Agriculture Cooperative Society Limited, village Khurd. Sir, it is requested that I am the President of the Ayali Khurd Multipurpose Agriculture Cooperative Society Limited, village Ayali Khurd, Distt. Ludhiana. With reference to the subject referred above, in the special audit report of our above mentioned society, it was found that there was a fraud committed in this society amounting to Rs. 6,17,81,932.61 copies of which are annexed along with this application. It is worth mentioning that we have submitted applications to the officials of the concerned department many times by personally meeting them, but no action till date has been taken by the police against them. Due to which we have been facing a lot of mental and financial problems. I request you to register F.I.R. under stringent sections and to recover the above mentioned amount with interest. With thanks. Dated 06/10/2023.

Yours faithfully, Sd/- Jagjit Singh, President, the Ayali Khurd Multipurpose Agriculture Cooperative Society Limited, Ayali Khurd (Ldh), Mobile No. 98764-03979.

The investigation report from D.S.P. Sanjeev Kumar bearing No. 446/Reader dated 31/03/2024 was prepared and sent to A.I.G., Crime Zonal, Amritsar. Report No. 453/Reader dated 03/04/2024 was sent from A.I.G., Crime Zonal, Amritsar through Director, Bureau of Investigation, Punjab, Chandigarh. It is stated in the conclusion of the investigation report "As per investigation conducted till date, the statements of applicant and audit inspectors from 01/04/2012 to 30/03/2022 and after checking the records of the society, it is found that the embezzlement of Rs. 6,17,81,932.61 by Ex-Secretary Sukhpal Singh S/o Nirmal Singh R/o village Ayali Khurd has been verified as per Special Audit Reports Ref. No. AAL/2023/846-51 dated 27/03/2023 for the years 2012 to 2022 as per verified statements of auditors, details of which are as follows:

Embezzlement	*: Rs.38,60,030.61*
Misuse	*: Rs.5,77,79,046.00*
Serious irregularities	*: Rs. 1,42,856.00*

It is worth mentioning here that it is clarified in the orders dated 25/01/2024 as per para 4 in the Civil Writ Petition No. 25369-2023 registered in the Hon'ble Punjab & Haryana High Court titled "The Ayali Khurd Multipurpose Agriculture Cooperative Society Limited Vs. Presiding Officer, Industrial Tribunal, Ludhiana" that "Further submits that the embezzled money, which is recoverable from respondent No. 2 Sukhpal Singh (workman) is more than Rs. 6.00 crores. Even liberty has *been given to the petitioner-management to initiate criminal proceedings against the workman", the next date of hearing in which is fixed for 19/04/2024. Different letters are sent by the Assistant Register, Cooperative Societies, Ludhiana West to the Hon'ble Commissioner of Police, Ludhiana to file a case against above Sukhpal Singh. Hon'ble Commissioner of Police, Ludhiana was repeatedly informed by this office in writing regarding the action taken on these letters but till date no report is received regarding the above. As per the facts/findings during the investigation of the above mentioned embezzlement, investigation has to be conducted on the above Sukhpal Singh by registering case under the appropriate sections of law. In this regard, the further investigation is recommended by consulting the law specialists. The investigation report of Sanjeev Kumar, PPS, D.S.P., Crime Zonal, Amritsar has been thoroughly studied/checked & verified by me and I am fully agreed to it. The report is submitted to you for your worthy orders. Sd/- Assistant Inspector General Police, Crime Zonal, Amritsar. As per approval of this investigation report bearing No. 453/Reader dated 03/04/2024 by the Office of Director, Bureau of Investigation, Punjab, Chandigarh and as per the recommendation of the Investigating Officer, The A.I.G., State Crime has been ordered as per Letter No. 1047/CC-1, Chandigarh dated 12/04/2024 to register case against Sh. Sukhpal Singh S/o Nirmal Singh R/o village Ayali Khurd under Section 408 IPC and to conduct investigation as per law and to add more appropriate sections as per more facts found during the* *investigation. After receiving the Letter No. 1047/CC-1 dated 12/04/2024 along with the investigation report No. 453/Reader dated 03/04/2024 in the police station, case is registered against Sukhpal Singh S/o Nirmal Singh R/o Village Ayali Khurd, District Ludhiana for crime under Section 408 IPC".*

3. Learned counsel for the petitioner contends that the petitioner was working as a Secretary in the Multipurpose Agriculture Cooperative Society, Ayali Khurd, Tehsil and District Ludhiana. The petitioner was placed under suspension on 06.09.2016 on the false allegations of embezzlement of funds and was terminated illegally on 04.08.2017.

4. Still further, about 12 acres of land belonging to the petitioner was ordered to be attached by the then Assistant Registrar, Cooperative Societies, Ludhiana (West) under Section 65 of the Punjab Cooperative Societies Act, 1961. Even, the Society framed references of dispute under Sections 55 and 56 of the Punjab Cooperative Societies Act, 1961 for recovery of the disputed amount of Rs. 38 lacs approximately and the award dated 02.12.2021 was passed against the petitioner. The petitioner challenged the said award under Section 34 of the Arbitration and Conciliation Act, 1996 and the arbitration cases are pending before the Court of Civil Judge (Junior Division) Ludhiana. Learned counsel further contends that the petitioner had also raised a reference under the Industrial Dispute Act against his illegal termination of services by the society before the

Industrial Tribunal and an award dated 14.08.2023 has been passed in favour of the petitioner for his reinstatement in the service. Learned counsel further contends that the allegations in the present case pertains to the period from 2012 to 2016 and the FIR has been registered after a lapse of about 08 years from the alleged commission of offence. Learned counsel further submits that the allegations levelled by the complainant in the FIR are false and baseless. As per the special audit report, it has been wrongly shown that the petitioner had embezzled a huge amount of Rs. 6,17,81,932.61/-. Even, the entire case was based on documentary evidence and the police had already collected documents in the present case. Thus, the custodial interrogation of the petitioner will not be required in the facts and circumstances of the present case. Apart from that, the petitioner had received a notice under Section 41-A of Cr.P.C. to appear before the IO and the petitioner was ready to join the investigation in the present case.

5. On the other hand, a detailed status report has been filed by way of affidavit of the Deputy Superintendent of Police, State Crime Police Station, SAS Nagar and the same was taken on record. Learned State counsel submits that a complaint was received from the President of the Multipurpose Agriculture Cooperative Society, Ayali Khurd, Tehsil and District Ludhiana, which was addressed to the Director, Bureau of Investigation, Punjab. As per the complainant, in the special audit report for the years 2012-2022, it has been revealed

that an embezzlement of 6,17,81,932.61/- has been found in the society. The AIG, Crime Zone, Amritsar conducted a detailed inquiry in the matter and an inquiry dated 03.04.2024 was submitted to the Director, Bureau of Investigation in Punjab. On perusal of the statement of the complainant, the audit investigators, who had conducted the audit for the period from 01.04.2012 to 30.04.2022 and records of the society, it has been found that as per the special audit report No. AAL/2023/846-51 dated 27.03.2023, the petitioner committed embezzlement of Rs.6,17,81,932.61/- and the details of which are as under:-

“ *Embezzlement*	*: Rs.38,60,030.61*
Misuse	*: Rs.5,77,79,046.00*
Serious irregularities	*: Rs. 1,42,856.00*
Total	*: Rs. 6,17,81,932.61/-”*

6. Still further, the aforesaid inquiry report was legally scrutinized in the Office of Director, Bureau of Investigation, Punjab and after approval by the Director, the FIR was ordered to be registered against the petitioner. Learned State counsel submits that during the course of investigation, notice under Section 41-A of Cr.P.C. was served on the petitioner and he was directed to join the investigation. However, in response to the notice, the son of the petitioner sent medical report of the petitioner and he did not join the investigation. Another notice dated 01.07.2024 under Section 41-A Cr.P.C. was served on the petitioner, but again he did not join the investigation. He further contends that the Investigating Officer had joined the local farmers and debtors of the aforesaid society and during the investigation, it has been found that they had been paying regularly loan installments and entries were made in their pass-books by the petitioners, upon receipt of the installments. However, the petitioner never deposited the installments with the Cooperative Society. Due to the embezzlement by the petitioner, the innocent farmers and debtors were declared as defaulters by the Agriculture Cooperative Society. In addition to this, the affected farmers/debtors of the aforesaid society had also filed applications before the other forums and all the cases have been decided against the petitioner. Thus, not only the record was to be recovered from the petitioner but his custodial interrogation was required to unearth the entire scam committed by him, in collusion with his co-accused. Thus, it was prayed that the present bail petition may be ordered to be dismissed.

6. I have heard learned counsel for the parties and perused the record.

7. While granting the concession of bail to an accused, the Courts have to exercise the jurisdiction on the basis of the well settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the Court has to take into consideration the nature of accusations, the nature of evidence in support thereof, the severity of punishment which the conviction may entail, character behaviour, means and standing, reasonable possibility

of securing the presence of the accused during trial, reasonable apprehension of the witnesses being tampered and the larger interest of the public or the State and similar other considerations. In the present case also, from a perusal of the record, it is evident that the “pointing finger of the accusations” against the petitioner is the “seriousness of the charge”. The petitioner has charged with serious economic offence of huge magnitude. The innocent farmers and the debtors of the Agriculture Cooperative Society had handed over huge amounts to the petitioner, which were to be deposited as loan installments in their respective accounts. The petitioner made the entry in their respective passbooks regarding the receipt of the amount of loan installments but instead of depositing the loan installments in their respective accounts with the society, the petitioner had embezzled lacs of rupees. Due to this, innocent farmers/debtors were declared to be defaulters by the agriculture cooperative society. Further, at this stage, it is evident from the audit report (Annexure P-3) that the petitioner has not only embezzled the huge amount but also misused the various amount of the society and committed serious irregularities in the society. Still further, the police is yet to interrogate the petitioner to collect the record, which may be in the possession of the petitioner and the police is yet to enquire about other co-accused, which may be involved with the petitioner in embezzling the amount of the general public. In the present case, apart from the seriousness of the offence, in the considered opinion of the Court, the custodial interrogation of the petitioner will also be required. Apart from that, in spite of issuance of notices to the petitioner, the petitioner has not joined the investigation in the present case. Thus, finding no merits, the present petition is ordered to be dismissed.

30.08.2024 **(N.S.SHEKHAWAT)**
amit rana **JUDGE**

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