

2024:PHHC:148534



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

149

CRM-M-37386-2024
DECIDED ON: 05.08.2024

SHARANVEER SINGH

... PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Amit Kashyap, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

1. Relief Sought

The jurisdiction of this Court under Section 482 BNSS has been invoked seeking pre-arrest bail to the petitioner in case FIR No. 0122, dated 15.06.2024, under Sections 379-B(2), 34 of IPC and Section 25 & 27 of Arms Act, registered at Police Station Dasuya, District Hoshiarpur.

2. The gravamen of the present case as narrated in the FIR reads as under:-

"Statement of Ajay Kumar son of Birampal resident of Alawalpur Police Station Bhagwanpur District Haridawar State Uttrakhand aged about 25 years mobile no. 90277-94585 stated that I am residing at the above said address and appointed as Assistant Manager in the Branch of Fuzan Micro Finance Company in

Dasuya, as per daily routine on 14-06-2024 I went to office for performing my duty that I was present in my branch with my staff at about 9:30 PM then two unknown persons whom wearing muffled on their face one out of them is Sardar and another one was clean shave person whom was Sardar put a Pistol shaped weapon and said that whatever cash you have give us otherwise he will shoot due to fear all the collected cash in the cashbox that was approximately 2 lakh 27,000 forcibly taken out apart from that an amount of Rs. 6000/-was taken from an Almirah. And thereafter out of those two persons, one person had jumped from roof on ground on a car parked there and second person climbed down from staircase and their accomplice was already standing with motorcycle, where upon all of them fled away from the spot on the above said person with motorcycle. A legal action be taken against the above said unknown persons.”

3. **Submissions:**

On behalf of the petitioner

It has been contended on behalf of learned counsel for the petitioner that earlier the FIR was registered against unknown persons, but later on the petitioner has been nominated as an accused on the basis of supplementary statement suffered by the complainant namely Ajay Kumar on 17.06.2024. He further contends that the petitioner has nothing to do with the alleged offence and implicated by the police due to a pre-existing vendetta with the complainant, who is working as Assistant Manager in Fusion Micro Finance Limited, Branch Dasuya, wherein the petitioner was also working in the same company, but had left due to a payment dispute.

Notice of motion.

On behalf of respondent/State

Mr. Rajiv Verma, DAG, Punjab, appearing on advance notice accepts the same on behalf of respondent-State of Punjab. He vehemently opposes the prayer made in the present petition stating that the petitioner has been nominated as an accused on the basis supplementary statement of complainant dated 17.06.2024, as he has embezzled an amount of Rs.80,000/- and left the job. The custodial interrogation of the petitioner is required to unearth the dimensions of the trade & also to recover the embezzled amount. Hence, anticipatory bail not be granted to him.

4. Heard learned counsel for the respective parties.

5. **Analysis and Conclusion:**

In case of criminal investigation, the normal procedure prescribed for curtailing the right to life & liberty, is that the investigating officer can arrest the accused even without warrant. The court has extraordinary power to protect an innocent person. However, this power has to be exercised by the courts with due circumspection.

From the perusal of the FIR, it is evident that the petitioner was nominated later on, on the basis of supplementary statement of complainant dated 17.06.2024 with regard to the fact that he has left the job, after embezzling the amount of Rs. Rs.80,000/-, which is sufficient for this Court to infer that the petitioner has actively participated in commissioning of offence and his custodial interrogation is required to recover the said amount. The mere fact that earlier the case was registered against unknown persons would not vest a right in him for the grant of anticipatory bail.

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 438 Cr.P.C., is

somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in “State vs. Anil Sharma”; (1997) 7 SCC 187, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable 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 material 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 needs 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.”

Keeping in view the afore-said facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby, dismissed.

05.08.2024
sham

(SANDEEP MOUDGIL)
JUDGE

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