



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

**CRM-M-39268-2023 (O&M)
Date of decision: 06.08.2024**

Balwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Vipul Aggarwal, Advocate for the petitioner.

Mr. D.S.Brar, Sr. D.A.G., Punjab for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.12 dated 26.05.2022 (P-1), under Sections 406, 420, 409, 465, 467, 468, 471, 120-B of the Indian Penal Code, 1860 (Section 201 IPC added later on); Section 13 (1) (A) read with Section 13(2) of the Prevention of Corruption Act, 1988 as amended by Prevention of Corruption (Amendment) Act, 2018, registered at Police Station Vigilance Bureau Patiala, District Patiala.

2024:PHHC:101031



(2) Above FIR was registered by complainant-Satpal Singh, DSP, Vigilance Bureau Range Patiala with the allegations that by showing fake development works of panchayat, Rs.6,66,47,036/- was embezzled by the office bearers of Gram Panchayat “Aakri” and Gram Panchayat “Sehri” in connivance with other co-accused.

(3) Learned Counsel contends that petitioner was granted interim bail by the Coordinate Bench, vide order dated 10.08.2023 and in pursuance thereof, he has already joined the investigation; thus, his custodial interrogation is not required. Also contends that although, it is the objection of prosecution that some money is yet to be recovered; but that cannot be a ground to deny the pre-arrest bail.

(4) *Per contra*, learned State Counsel, on instructions, objected the prayer on the premise that certain amount is yet to be recovered.

(5) Heard learned Counsel for the parties and perused the paper-book.

(6) It is not in dispute that petitioner was granted interim bail by the then Coordinate Bench, vide order dated 10.08.2023 and the order reads as under:-

“Inter alia contends that in the present case, 27 persons have been named in the FIR but neither the petitioner nor his wife Rakesh Rani, who is the Sarpanch of village Pabra has been named. It is submitted that the challan in the present case has been filed on 23.08.2022 against 15 persons and although the name of wife of the petitioner Rakesh Rani has been mentioned as an accused but the petitioner has not been named in the same. It is further submitted that the wife of the petitioner

2024:PHHC:101031



has been granted the concession of anticipatory bail by the Special Judge, Patiala vide order dated 17.09.2022 and in the said order, it has been observed that with respect to an amount of Rs.27.28 lacs in the report dated 27.05.2022, it has come about that the Panchayat has used the amount within the prescribed limit of 10%, for the purpose of development of village and qua her, no illegality has been found although certain irregularities have been found. It is stated that the petitioner is not even a public servant and has been implicated in the case primarily on account of the fact that the petitioner is the husband of aforesaid Rakesh Rani. It is further stated that Jasvir Chand, Panchayat Secretary, against whom allegations have been made to the effect that money had been paid to him on behalf of Madan Lal @ Madan Lal Jalalpur, who is the ex MLA, has been granted the concession of anticipatory bail by the Hon'ble Supreme Court vide order dated 28.07.2023. It is further submitted that even Madan Lal @ Madan Lal Jalalpur had filed a petition seeking anticipatory bail i.e., CRM-M-14983-2023 and in the said case, notice of motion has been issued and interim protection has been granted vide a detailed order dated 29.03.2022 passed by a coordinate Bench of this Court and said case is now listed for 25.08.2023. It is stated that even the son of the said Madan Lal @ Madan Lal Jalalpur i.e., Gagandeep Singh @ Jolly has also been granted interim protection in the anticipatory bail application filed by him. It is submitted that initially the present FIR was registered against Gram Panachayt village Sehri and it is only subsequently that various gram panchayats of 4 different villages including that of village Pabra where the wife of the petitioner is the Sarpanch, were also included. It is submitted that as far as village Pabra is concerned, there are no allegations of misappropriation of funds.

Notice of motion.

2024:PHHC:101031



On advance notice, Mr.Ferry Sofat, Addl.A.G. Punjab, appears and accepts notice on behalf of the respondent-State and prays for an adjournment to file status report.

Adjourned to 25.08.2023.

To be heard along with CRM-M-14983-2023.

In the meantime, in the event of arrest, the petitioner is ordered to be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting / Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

Grant of interim protection shall not be construed to be an opinion on merits of the case and would not create any equitable consideration in favour of the petitioner at the time of deciding the present petition on merits.”

(7) It is acknowledged by learned State Counsel on instructions that in pursuance of the aforesaid order, petitioner has already joined the investigation.

(8) The Investigating Officer was/is well empowered to verify the bank details of the petitioner or account(s) of Gram Panchayat and/or of any other person(s) acquainted with the facts of present case; but he (petitioner) cannot be denied the concession of pre-arrest bail on the flimsy ground that money which was allegedly mis-utilized, during January, 2021 to November, 2021, is yet to be recovered.

(9) In view of the above, present petition is allowed; interim order dated 10.08.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

2024:PHHC:101031



- (10) It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
- (11) The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
- (12) It is clarified that in case there is recurrence on the part of the petitioner, State would be at liberty to move an appropriate application for recalling of this order.

Pending application(s), if any, shall also stand disposed off.

6th August, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes