

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-44729-2021
Date of decision: 07.03.2024

Naresh Kumar @ Neeta.....Petitioner.

Versus

State of Punjab.....Respondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Harsh Chopra, Advocate,
for the petitioner.

Mr. Ankit Grewal, DAG, Punjab.

Mr. Mandeep Kanwar, Advocate,
for Mr. Jastej Singh, Advocate,
for the complainant.

.....

SANJIV BERRY, J. (ORAL)

1. By way of present petition filed under Section 438 Cr.P.C, the petitioner seeks anticipatory bail in case FIR (Annexure P-1) as under: -

FIR No.	Dated	Section	Police Station
112	01.10.2021	406 IPC	City Balachaur, District SBS Nagar

2. Learned counsel for the petitioner submits that in compliance to the order dated 24.11.2021, the petitioner has joined the investigation.

3. During the course of hearing on 24.11.2021, following order has been passed: -

‘Case is taken up for hearing through video conferencing.

Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.112 dated 01.10.2021, registered under Section 406 IPC, at Police Station City Balachaur, District SBS Nagar, Punjab.

Reply by way of affidavit dated 23.11.2021 of the Deputy Superintendent of Police, Balachaur, District SBS Nagar, Punjab, filed on behalf of the respondent-State, in the Registry, is taken on record.

Learned counsel for the petitioner submits that the petitioner was the Secretary of the Union and that as President of the Union, namely, Sarwan Kumar, has already been granted the concession of anticipatory bail vide order dated 22.10.2021 passed by a Coordinate Bench of this Court, the petitioner may also be granted such concession, on the ground of parity. He further submits that the petitioner is ready to join the investigation and to satisfy the investigating agency regarding the alleged embezzled amount, if any, by him. Notice of motion.

On the asking of this Court, Mr. HS Multani, AAG Punjab, and Mr. Jastej Singh, Advocate for the complainant, accept notice and submit that though the co-accused has been granted ad interim anticipatory bail, yet he is not cooperating with the investigating agency. It is further submitted that the petitioner, being the Secretary, has embezzled an amount of Rs.75,00,000/-. Adjourned to 13.12.2021.

Meanwhile, the petitioner is directed to join the investigation on 29.11.2021, at Police Station Balachaur, District SBS Nagar, and produce the entire records and satisfy with regard to the aspects of the account. On his doing so, if he is sought to be arrested, he shall be released on interim bail to the satisfaction of Investigating Officer/Arresting Officer subject to the conditions as envisaged in Section 438 (2) Cr.P.C.

However, anticipatory bail, granted while exercising the judicial discretion, should not operate as an inroad into the statutory investigational power of the police.

On the date fixed, this Court will consider with regard to the factum whether the prayer of the petitioner for confirmation of the interim bail should be granted or not.'

4. Learned State counsel, on instructions from Inspector Amandeep Singh, informs the Court that the petitioner has joined the investigation and is neither required for further investigation nor for any custodial interrogation.

5. On the other hand, learned counsel for the complainant submits that relevant record has not been produced by the petitioner to which Inspector Amandeep Singh, submits that all the requisite record relevant for the investigation has been taken into possession.

6. Faced with this situation, and in view of the submissions made by learned State counsel and the fact that the petitioner had joined the investigation consequent to the order dated 24.11.2021 passed by this Court, interim bail granted vide order dated 24.11.2021 is hereby confirmed, subject to conditions as envisaged under Section

438(2) Cr.P.C. Further the petitioner is directed to join investigation as and when required in future by way of written notice for such purpose to be served by Investigating Officer of this case upon the petitioner; he will not tamper with the evidence nor will influence the witnesses and will not leave the country without prior permission of the Court.

7. The petition stands allowed.
8. It is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

07.03.2024
preeti

(SANJIV BERRY)
JUDGE

- i) Whether speaking/reasoned?

Yes/No
- ii) Whether reportable?

Yes/No