

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41576-2024
Reserved on: 09.09.2024
Pronounced on: 26.09.2024

Rajwinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Dilraj Singh Bhinder, Advocate and
Ms. Indira, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
15	30.07.2024	Vigilance Bureau, Jalandhar	409/467/468/471/201/120-B IPC and Section 13(1) A read with Section 13 (2) of PC Act, 1988

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. Per paragraph 12 of the bail application, the accused has the following criminal antecedents:

Sr. No	FIR No.	Dated	Offences	Police Station
1	1	21.03.2012	201/409/420/467/468/471/473 and 120-B IPC and Sections 13(1) and Section 13 (2) of PC Act, 1988	Vigilance Bureau Range, Amritsar
2	10	07.03.2024	7, 13(1) A read with Section 13 (2) of PC Act, 1988 and Sections 465/466/467/468/471 IPC	Vigilance Bureau Range, Amritsar

3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“4. That it is most respectfully submitted that during preliminary enquiry conducted by Vigilance Bureau vide enquiry report no. 04/2023, it has come to light that Director Health and Family Welfare Department, Punjab, Amla-1 Branch appointed Petitioner Rajwinder Singh as clerk permanently at PHC Dhilwan vide order No. Amla-1 (5) Punjab 2016/4429-30 dated 25.05.2016. On dated 27.05.2016, co-accused Dr. Lakhwinder Singh Chahal (Retd.) was also transferred from Sub Division Baba Bakala to PHC, Dhilwan as SMO. The co-accused Dr. Lakhwinder Singh Chahal had knowledge about registration of case against the petitioner qua embezzlement in salaries. Dr. Lakhwinder Singh Chahal, Retd. SMO had DDO powers for issuance of salaries to the staff members/employees and he deputed the petitioner with the Bill clerk Ranjit Singh as his assistant by his verbal order. During enquiry by Vigilance Bureau, the statements of all bank accounts of the petitioner were obtained, from which it transpired that the petitioner used to deposit the amount in his different bank accounts pertaining to employees who were on long leave, employees who were not given CPF number, by getting double salary of employee, arrears of employees, medical bills of employees, bills of pension of employees and bills of D.A during his posting at PHC, Dhilwan, thereby he had drawn a total sum of Rs. 14,46,550/ of the employees. The petitioner in connivance with co-accused persons got prepared forged bills of salary of the employees and used to pass the amount from the Treasury Office, Bholath, District Kapurthala after getting the counter signature of Ranjit Singh (Retd.Supt.) and Dr. Lakhwinder Singh Chahal, (Retd. SMO) thereon. A part from this, Co-accused Dr. Lakhwinder Singh Chahal (Retd. SMO) and Ranjit Singh (Retd.Supt) had a duty of keeping into record the original bills of salary drawn to the employees and to check them time to time but they in- connivance with the petitioner destroyed the record of fake bills. By doing this, Dr. Lakhwinder Singh Chahal, Ranjit Singh and the petitioner had committed crime under sections 409, 467, 468, 471, 201, 120-B IPC and section 13 (1) a read with section 13 (2) PC Act 1988 as amended by PC Amendment Act 2018. As a consequence, there of, the above mentioned FIR was registered.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the

petitioner and their family.

5. The State's counsel opposes bail and refers to the status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

“7. That during investigation it has further come to fore that as per Audit report made by General Accountant Audit Punjab, it has found that no copy of salary bills were submitted during the year 2023-24. According to the Audit Report, embezzlement of Rs. 14,79,797/-has been found.

8. That during investigation, the petitioner was arrested by the Deputy Superintendent of Police, Vigilance Bureau Range, Jalandhar from his house. However, at that time the petitioner produced a copy of order dated 06.06.2017 passed by the Ld. Addl. Sessions Judge, Kapurthala, where by the Ld. Court has granted him blanket bail for a period of 5 days, prior notice to be given to the petitioner before making his arrest. Accordingly, the DSP released him forthwith and served notice to the petitioner to appear in the office of Deputy Superintendent of Police, Vigilance Bureau, Unit Kapurthala on 04.08.2024 but the petitioner did not turn up on the fixed date.

ROLE OF THE PETITIONER:

9. That it is respectfully prayed that an enquiry was conducted by Vigilance Bureau Unit Kapurthala vide enquiry no. 04/2023. It has found that during the period May 2016 to October 2017, co-accused Dr. Lakhwinder Singh Chahal was posted as SMO at PHC Dhilwan. The DDO powers qua releasing of salaries of employees of PHC Dhilwan, CHC Begowal and Primary Health Center Maqsudpur were also with co-accused Dr. Lakhwinder Singh Chahal. Co-accused Dr. Lakhwinder Singh Chahal orally gave the powers to make salaries to petitioner Rajwinder Singh, Clerk with the connivance of Sr. Assistant Ranjit Singh (co-accused). However, as per the written orders, the said duties were given to co-accused Ranjit Singh, Clerk. The petitioner with the connivance of co-accused Dr. Lakhwinder Singh Chahal and Ranjit Singh, has made embezzlement of Government funds amounting to Rs.14,46,550/-.

EVIDENCE COLLECTED AGAINST THE PETITIONER:

10. That during the investigation, the statements of all bank

accounts of the petitioner Rajwinder Singh (Clerk) were obtained. On its scrutinizing, it transpires that the petitioner had got transferred a sum of Rs. 3,62,329/-, Rs. 5,57,298/-, Rs. 1,05,046/-, Rs. 2,72,024/- and Rs. 1,49,853/ on different intervals in his UCO bank account no. 14370100004385, Branch Raiya, UCO bank account no. 14370110052389 Branch Raiya, Central Bank of India account no. 1597072852, Branch Bias, PNB account no. 3490000404155012 branch Dhilwan and SBI account no. 55061349236 branch Dhilwan respectively. The aforementioned amounts were transferred by the petitioner from the State Bank of Patiala after getting passing salary bills etc. from the Treasury office, Bholath. Therefore, total sum of Rs. 14,46,550/- was withdrawn by the petitioner purposely in order to cause wrongful loss to Government and later on he withdrew the said amount through his ATM and through cheques. The statements of all Bank Manager of the aforementioned branches have been recorded under section 161 Cr.p.c during the investigation.”

7. There is sufficient prima facie evidence connecting the petitioner with the alleged offense; still, it is neither a case for custodial interrogation nor pre-trial incarceration because of the delay and the petitioner's conduct in depositing the alleged amount. Although the evidence might be prima facie sufficient to launch prosecution or to frame charges, this Court is not considering the evidence at that stage but is analyzing it for the bail stage.

8. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. This order is subject to the petitioner’s complying with the following terms.

12. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

13. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

14. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

15. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

16. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

26.09.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No