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209 (4th case)

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

**CRM-M-45853-2023 (O&M)
Date of decision: 06.08.2024**

Charanjit Kaur and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Ms. Khushika Setia, Advocate for
Mr. Simranjeet Singh Sarwara, Advocate for the petitioners.

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 petitioners 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.

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(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 petitioners were granted interim bail by the Coordinate Bench, vide order dated 14.09.2023 and in pursuance thereof, they have already joined the investigation; thus, their 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 petitioners were granted interim bail by the then Coordinate Bench, vide order dated 14.09.2023 and the order reads as under:-

“Learned counsel for the petitioners has submitted that Gurmeet Kaur who is also a Panch of Village Sehra, had also signed the Resolutions as are the allegations against the present petitioners and had also filed SLP (Criminal) No.30258 of 2023 after dismissal of her anticipatory bail application by a Coordinate Bench of this Court and in the said SLP, notice of motion has been issued and interim protection has been granted to the said Gurmeet Kaur. It is further stated that Jasvir Chand,

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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 the said case is now listed for 27.09.2023. It is stated that even the son of the said Madan Lal @ Madan Lal Jalalpur i.e., Gagandeep Singh @ Jolly has been granted interim protection in the anticipatory bail application filed by him.

Notice of motion for 27.09.2023.

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

In the meantime, in the event of arrest, the petitioners are ordered to be released on interim bail subject to their furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioners 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, petitioners have already joined the investigation.

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(8) The Investigating Officer was/is well empowered to verify the bank details of the petitioners or account(s) of Gram Panchayat and/or of any other person(s) acquainted with the facts of present case; but they (petitioners) 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 14.09.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

(10) It is also made clear that petitioners 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 petitioners, 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