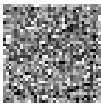


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2024:PHHC:124604



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45848-2024 (O&M)
DECIDED ON: 20.09.2024

GURMUKH SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. A.S. Brar, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

CRM-37892-2024

This is an application under Section 528 of BNSS, 2023 for placing on record FIR No.0003, dated 02.01.2024, under Section 406 IPC as Annexure P-4).

For the reasons mentioned in the application, the same is allowed subject to all just exceptions. Annexure P- 4 is taken on record.

Application stands disposed of.

CRM-M-45848-2024

1. Relief sought

The jurisdiction of this Court has been invoked under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.108,

dated 14.07.2024, under Section 408 IPC, registered at Police Station City South, District Moga.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“To, The SSP, Moga. (Through eligible system) Subject:- For registration of FIR regarding Special Report issued in Charik (Inquiry period 01.04.2019 to 31.03.2023) of Charik Multi-Purpose Cooperative Agriculture Service Socieity Limited. It is requested that Shri Manmohan Singh, Audit Officer, Co-operative Societies, Moga through his office letter No: 2399 dated 06.11.2023 issued during audit of The Charik Multi-Purpose Co-operative Agriculture Seva Sabha Limited Special report of Rs.1,02, 82,580.59/- (embezzlement Rs. 90,87,011.05/- misappropriate of fund Rs. 11,95,569.54/-) has been sent. A special report dated 20.09.2023 was sent to the Office Audit Officer, Co-operative Societies, Moga by Shri Ravneet Singh, Inquiry (Audit) during (inspection period 01.04.2019 to 31.03.2023), after which Mr. Anil Kumar, Senior Auditor, PADB Moga perused/audited this report on 27.09.2023, after verification of audit by Mr. Manmohan Singh, Audit Officer, Cooperative Societies, Moga on 23.10.2023 and Mr. Anil Kumar, Sr. Auditor, PADB Moga after amending the special report on dated 30.10.2023 was re-sent to the office of Audit Officer, Co-operative Societies, Moga. After which on 06.11.2023 this report was sent to the Office of the Chief Auditor and to the Society. According to the instructions of the department, in compliance with this report, management committee of The Charik Multi-Purpose Cooperative Agriculture Seva Socieity Limited has passed a resolution on 03.03.2024 to take criminal action against the

employees guilty of embezzlement/mis appropriation. Through this letter, it is requested that the person responsible for the said embezzlement/serious misappropriation of funds Mr. Gurmukh Singh (Ex-salesman) son of Sukhdev Singh, resident of Charik, Maya Devi (temporary Ex-salesman) daughter of Charan Singh, resident of Charik, Lahora Singh (former Secretary/Salesman) son of Baldev Singh, resident of Charik and Balwinder Singh (Ex-Secretary) son of Bikar Singh, resident of Charik, it is requested to the Hon'ble S.S.P. Moga to register an FIR under the relevant sections. Sd/- Gurcharan Singh, President and other Management Committee Member, The Chadik Multi-Purpose Cooperative Agriculture Sewa Sabha Lim: Chadik. Sd/- Harbans Singh above, Sd/- Bholu Singh above, Sd/- Gurjit Kaur above, LTI/- Jasvir Singh above., Sd/- Karamjit Singh above, SD/- Buta Singh above, Sd/- Lakhvir Singh above, Sd/- Jagroop Singh above, Sd/- Nirbhai Singh.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that the instant FIR No.108, dated 14.07.2024, under Section 408 IPC, registered at Police Station City South, District Moga tantamounts to double jeopardy qua the present petitioner, since on the same set of allegations he already stands nominated in earlier FIR No.0003 dated 02.01.2024 which has been placed on record at Annexure P-4 with the application CRM No.37892 of 2024.

On behalf of the State

Learned State Counsel appearing on advance notice and submits that though the petitioner was granted interim bail by the trial Court vide order dated 06.08.2024 and he joined the investigation on 12.08.2024 but did not cooperate and on that account, his anticipatory bail application very rightly and justifiably stands dismissed by the trial Court. He on the same set of assertions seeks dismissal of the instant petition as well.

4. Analysis

Be that as it may, having given considerable thought and the fact that the petitioner has already joined the investigation earlier on 12.08.2024 but merely on the assertion that the petitioner is not cooperating in the proceedings since certain electronic items used in the commissioning of offence are yet to be recovered from him i.e. one laptop and few documents. On that account, learned counsel for the petitioner has stated before this Court that the laptop in question as well as the documents stand furnished to the investigating officer at the time when he joined the investigation in the earlier FIR No.0003, dated 02.01.2024 and, therefore, now the reason declining him anticipatory bail is totally misplaced and unwarranted.

Considering the aforesaid factual aspect, learned State counsel is not in a position to clarify on the fact as to whether the aforesaid laptop and documents now required for investigation in the instant FIR, have been furnished by the petitioner during the course of investigation in the earlier FIR as recorded hereinabove.

Without going further into this issue, the fact that the petitioner had earlier joined the investigation on 12.08.2024 during the interim protection granted by the trial Court in the instant FIR, no cogent reason is available for the Court to send the petitioner for further custodial interrogation added with the fact that the State has also failed to put forth any such incriminating material necessitating custodial interrogation of the petitioner at this stage.

5. **Decision**

In the light of above, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned on 22.09.2024 at 10:00 a.m. and if the laptop and documents were not earlier deposited with the investigating officer in FIR No.0003 dated 02.01.2024, as has been stated before this Court, the same shall be handed over now so that the investigation in the present matter proceed in the right direction, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 438(2) of Cr.P.C.

“(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of Section 437, as if the bail were granted under that section.”

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

20.09.2024

Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No