IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-55454-2023 (O & M)
Date of decision:06.03.2024

Pawan Kumar …... Petitioner

V/s

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Neeraj Yadav, Advocate,
for the petitioner.

Mr. Rupinder Singh Jhand, Addl.A.G., Haryana.

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<u>JASJIT SINGH BEDI, J. (Oral)</u>

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.292 dated 04.09.2023 under Sections 406, 409, 420 467, 468, 471 IPC registered at Police Station Bhiwani Civil, District Bhiwani.

2. The present FIR came to be registered at the instance of Raj Kumar, District Revenue Officer, Bhiwani and reads as under:-

> *"A complaint was received in SP Office, Bhiwani, vide diary no. 4096-PD dated 04.09.2023, from Office of the Land Acquisition Officer, PWD, Building and Road, Branch Bhiwani. To the Superintendent of Police, Bhiwani. Serial Number: 764 Dated 04/09/23. Subject:- Application for filing case against Mr. Pawan Kumar, son of Mr. Attar Singh, resident of House No. 787. Indra Nagar, Hanuman Gate (Mob. 9813337567), currently posted under Patwari (HKRN Scheme) Office of Land Acquisition Officer, Office of Public Works Department, Building and Road Branch, Bhiwani. On the above subject, it is requested that I, Rajkumar, District Revenue Officer, Bhiwani*

and I also have the charge of Land Acquisition Officer, PWD Building and Road, Branch- Bhiwani. I also do the work of distributing compensation to the farmers related to land acquisition. There was a strike of clerical class going on in the month of July. During this time, Pawan Kumar son of Shri Attar Singh Patwari (recently posted Patwari under HKRN) was working with me, who was present in my office along with Naib Tehsildar Rampal. He presented me a bill regarding land acquisition compensation whose amount was in lakhs of rupees and asked me to sign the bill. At that time, he had no record other than the bill and neither did any employee sign the bill. I said, get the signatures of the Naib Tehsildar and Kanungo incharge of the records and present the related records before me, I will sign the bill only after checking the records and noting and signatures of the concerned employees. Thus, he left my office and never came back. On dated 31.08.2023, some bills were presented to me for signature by Kanungo in-charge Manoj Kumar, then I came to my notice that even during the strike, there was a bill whose amount was in lakhs of rupees, about which I asked Kanungo Manoj Kumar, Kanungo and he told that apart from today's bills, I have not prepared any bill during the strike. Thus, I immediately called the computer operator Sunil Kumar and asked him. He told that Pawan has also prepared some bills, which I have prepared as per the orders of Naib Tehsildar Rampal Mor and Pawan Kumar had come to get it done and I can check and tell about it. Computer operator Sunil Kumar checked and told that a bill of Rs. 52,00,000/- which is related to the land of Kitlana has been prepared by me and actual bill of all the documents related to it were with Pawan Kumar. I don't know anything after that, my work is only for making bills and correspondence. I ordered him to provide me all the information related to this bill. After some time, he submitted the bill to me through online mode, which I showed to Kanungo Manoj Kumar. Kanungo Manoj Kumar told that hardly any *land owner in village Kitlana is holding such big land and I can verify after checking the record. I instructed that you should give information about the amounts related to this bill and instructed computer operator Sunil Kumar to keep whatever information related to this bill in the records and online and personal information and tell me what is the status of this bill. Shri Sunil Kumar Computer Operator, after looking at the e-billing system, informed that the money has gone into the account of the following persons after the bill was generated, which is as follows -*

1. Narendra Anjesh resident of village Kitlana 39084322625 State Bank of India Rs. 390000/-
2. Pinky Jai Singh resident of village Kitlana 82570100030738 Punjab National Bank Rs. 28,35,000/-
3. Suman Devi Dinesh resident of village Kitlana 1937010023320 Punjab National Bank Rs. 4,95,000/-.
4. Tinku Captain Singh resident of village Kitlana 0577000102523477 Punjab National Bank Rs. 4,90,000/-
5. Vikas Jagbir resident village Kitlana 50100638878332 HD.F.C. Bank Rs. 4,90,000/-

In this context, Kanungo Manoj Kumar told me that no amount of the persons mentioned in this bill is on record and computer operator Sunil Kumar told that after checking online it is found that these persons have been paid. Thus, as soon as the doubt arose, the undersigned took suo-moto cognizance and obtained a copy of the EPS through correspondence from State Barnk of India Bank. It was found that my signature on the EPS was forged. In this way, account information of bank account holders was collected. Their accounts were found nil and it was verbally informed by the bank that the amount has been deposited by Narender (Serial No.1) in the account number 520291024424076 of Lakshmi, wife of Shri Pawan (Patwari

HKRN) in Union Bank of India Hasi Gate Bhiwani. Information about the account number was taken in which an amount of approximately Rs, 8,13,000/- was still remaining, on which immediate action was taken vide office letter number 01 spl/ Dated: 02-09-2023 to the Branch Manager, Union Bank of India Hansi Gate. A request was written stating that no transactions be made in this account and the account was seized. Thus, it is clear from the above circumstances that the Govt. Fund have been embezzled. Above named Pawan forged the documents and also forged my signatures and has embezzled the amount and in this episode the amount has been transferred to the accounts of (1. Narender S/o Ajnesh, 2. Pinki W/o Jai Singh, 3. Suman Devi W/o Dinesh, 4. Tinku S/o Captain Singh, 5. Vikash S/o Jagbir) in connivance with these persons Pawan Kumar currently posted Patwari, after forging my signatures have embezzled the govt. funds. Whoever is involved in the present offence, the legal action be taken against them. Apart from this if the above named Pawan has committed some fraud then enquiry is being made by my office. If it comes to my knowledge regarding some other fraud and embezzlement it would be informed to the police. It is requested that legal action be taken against the culprit. -Sd- Rajkumar".

3. During investigation, it was found that no land of village Kitlana was acquired and the petitioner had transferred the embezzled amount of Rs.52 lacs in the accounts of Narender, Pinki, Suman Devi, Tinku and Vikas purported residents of village Kitlana whereas these persons were not from the said village but belonged to different places. All the persons were relatives/friends of the petitioner. Narender and Vikas were the sons of the maternal-aunt of his (petitioner's) wife, Pinki was a friend of the wife of the petitioner, Suman Devi was the wife of the petitioner's friend-Dinesh

whereas Tinku was a friend of the petitioner's friend-Dinesh. These persons disclosed the manner in which the occurrence took place inculpating the petitioner.

During investigation, the complainant submitted an application to the Superintendent of Police, Bhiwani wherein he stated that as per his internal enquiries, the embezzled amount was not Rs.52 lacs but Rs.2,50,78,880/- and as many as 24 fake bills were submitted for the benefit of 39 fake beneficiaries.

When the petitioner was granted interim bail and had joined investigation, he disclosed the manner in which he came to be employed with the department as also how and in what manner the fraud was perpetuated by forging the documents and transferring the amounts in the accounts of various persons.

The District Treasury Officer submitted a treasury Bill No.02000677-2023-24-0032 amounting to Rs.52 lacs, the basis of the present FIR which had been deposited by the petitioner with the District Treasury.

It was also found during investigation that one Pooja wife of one Ravi had received an amount of Rs.6,95,170 against two fake bills and a sum of Rs.1,50,000/- was transferred in the account of the petitioner on 20.05.2023.

4. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. In fact, he had been made a scapegoat and certain other persons had committed the offence. He was only appointed on 25.08.2023 and the occurrence of defalcation of money had taken place prior to that. The entire process of payment was

subjected to the signatures of the District Revenue Officer, Treasury Officer, etc. at various stages after cross-checking by higher officials and it was improbable that the petitioner could have got passed bills in a casual manner. The persons into whose account the money had been transferred were not known to the petitioner. As the entire case was based on the documentary evidence, the petitioner had joined the investigation and co-operated with the same, he was entitled to the concession of anticipatory bail.

5. The learned counsel for the State, on the other hand, while referring to the reply dated 13.12.2023 contends that not only was a huge amount of money defalcated by the petitioner by forging documents but the stand taken by him that he came to be employed with the department in August, 2023 was absolutely incorrect. In fact, the manner in which the petitioner came to be appointed had been explained by him when he joined investigation and there was documentary evidence in the shape of an order of the Court showing the petitioner appearing for the Land Acquisition Collector on 25.05.2023 (Annexure R-3). Further, money had also been transferred into his account which was apparent from the statement (Annexure R-1). Though the petitioner had joined the investigation, he had not co-operated with the same inasmuch as he had not got recovered the forged bills, his mobile phone and certain other documents. Even otherwise, once a *prima facie* offence is made out as in the present case, merely because custodial interrogation was needed would not be a sufficient reason to grant the petitioner the concession of anticipatory bail, particularly, on account of the enormity of the offence.

6. I have heard the learned counsel for the parties.

7. The Hon'ble Supreme Court in the case of ***'Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022(4) RCR (Criminal) 977',*** has held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

> *"It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.*
>
> *Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.*
>
> *We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside.* ***In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be***

considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail."

8. In the instant case, the primary argument of the petitioner is that he came to be appointed with the department only in August, 2023 and could not have committed the offence. As regards the said argument, Para 7 of the State reply dated 13.12.2023 shows not only the details, the manner in which he came to be appointed but also how money was transferred into the accounts of various fictitious beneficiaries. The same is reproduced hereinbelow:-

"7. That thereafter, the petitioner was joined in the investigation on 07.12.2023 and during enquiry, he has admitted that he had joined the department of PWD (B&R) as Patwari on D.C. Rate in year 2018. After that, he worked for about 2 years and then in February 2020, he was removed from there due to the lockdown. After that, in August 2020, he was called again in the office of XEN, PWD (B&R) Department, Bhiwani and he got a job there as a helper at DC Rate. From the PWD (B&R) Department, he used to go to the Court cases with XEN and from LAC Department, Manoj Kumar Kanungo and Rampal Mor

Naib Tehsildar used to come to the Court for cases, due to which, he got acquainted with both of them. There was a shortage of Patwari in the LAC Department. In the month of November 2022, Manoj Kumar Kanungo told him that you start working as a Patwari in the Land Acquisition Office, Bhiwani. We will get you appointed to the post of Patwari in the LAC Department under the Skill Employment Scheme. Then he gave his papers to them and he started working as Patwari in LAC Office Bhiwani and he used to assist Manoj Kanungo and Rampal Mor Naib Tehsildar in the work of the land acquired by this office from PWD (B&R) Department. A lot of money of the beneficiaries was deposited in the government treasury, to which, when the actual beneficiary applied, a bill was prepared in his name and the compensation amount was deposited in his account. In December 2022, Ram Pal Mor Naib Tehsildar LAC Department Bhiwani told him that the compensation amount of many beneficiaries is deposited in the government treasury of the department, which has not been received by the real beneficiaries, you should get their account numbers and PAN Card numbers from your relatives or acquaintances. So that by making them appear to be fake compensation holders of District Bhiwani, by making fake bills in their names and getting the money drawn from the Government Treasury in their accounts, they will get cash from them and distributed it among themselves, which as per the plan, he has given the account numbers and PAN Numbers of many of his relatives and acquaintances. By obtaining the numbers and showing them as fake land owners, 24 fake bills related to land acquisition were prepared in their names and the money released from the Government, amounting to about Rs. 2 Crores 50 Lacs, was transferred to the Government Treasury head account no. 8443 and 2075, in collusion with higher officials and by misusing their position, were transferred to the accounts of 39 account holders of his relatives and acquaintances, in which, a total of four bills were *deposited in the account of Pinki wife of Jai Singh, resident of Haluwas Gate, Bhiwani, who is known to his wife Laxmi, amounting to Rs. 37,31,400/-, Rs. 99,460/- was transferred in the account of Santosh wife of Ramphool resident of Hakla, District Jhajjar, who is the Mausi of his wife, Rs. 81,250/- was transferred in the account of Nisha daughter of Bimla, resident of Pataudi, who is friend of his wife Laxmi, Rs.98,500/- was transferred in the account of Rohit son of Sunil, resident of Surehli, District Rewari, who is son of Mausi of his wife, Rs. 98,200/- was transferred in the account of Baljeet son of Ram Kumar, resident of Naya Bazar, Bhiwani, who is his friend, Rs. 7,96,500/- against two fake bills was transferred in the account of Jai Singh son of Jagdish, resident of Mini Bye Pass, Bhiwani, who is husband of Pinki, Rs. 58,500/- was transferred in account of Sushila wife of Baru Ram, resident of Tigaon, District Faridabad, who is maternal-aunt of his wife, Rs. 39,500/- was transferred in account of Arti daughter of Ashok, resident of Meham, District Rohtak, who is his known, Rs. 93,600/- was transferred in account of Vivek son of Prem Chand, resident of Kosli, District Rewari, who is friend of his brother-in-law Narender, Rs. 9,41,275/- against three fake bills was transferred in account of Saraswati wife of Monu, resident of Dadri Gate, Kaunt Road, Bhiwani, who is daughter of Pinki, Rs. 97,280/- was transferred in account of Sahil son of Manoj, resident not known, who is his known, Rs. 9,88,700/- against two fake bills was transferred in account of Narender son of Anjesh, resident of Dhakla, who is son of Mausi of his wife, Rs.11,80,000/- against two fake bills was transferred in account of Vikash son of Anjesh, resident of Dhakla, who is son of Mausi of his wife, Rs. 6,95,170/- against two fake bills was transferred in account of Pooja wife of Ravi, resident of Surehli, District Rewari, who is wife of his brother- in-law, Rs. 20,42,545/-against three bills was transferred in account of Dinesh son of Sohan Lal, resident of Charkhi Dadri, who is his* *friend, Rs. 4,60,000/- was transferred in account of Sunita wife of Ramphal, resident of Hanuman Gate, Bhiwani, who is his maternal aunt, Rs. 6,45,000/- was transferred in account of Vidya Devi wife of Attar Singh, resident of Hanuman Gate, Bhiwani, who is his mother, Rs. 4,90,000/- was transferred in account of Suresh son of Ramphool, resident of Tigaon, District Faridabad, who is maternal- uncle of his wife, Rs. 4,65,000/- was transferred in account of Brijpal son of Ramphool, resident of Tigaon, District Faridabad, who is maternal-uncle of his wife, Rs. 8,30,000/- against two fake bills was transferred in account of Manish son of Devraj, resident of Village Baliyali, District Bhiwani, who is known of Pinki, Rs. 4,60,000/- was transferred in account of Ajay son of Mojiram, resident of Lula Aheer, District Rewari, who is known of his brother-in-law, Rs. 5,65,000/- was transferred in account of Vicky son of Inder Singh, resident of Haluwas Gate, Bhiwani, who is brother of Pinki, Rs. 5,35,000/- was transferred in account of Rahul son of Niranjan, resident of Rewari, and Rs. 2,45,000/- in the account of Pushpa wife of Bhagat Singh, resident of Naya Bazar, Bhiwani, who is Bhabhi of Pinki, Rs. 8,30,000/- was transferred in account of Virender son of Surajmal, resident of Dhakla, District Jhajjar, who is known of his brother-in-law Narender, Rs. 6,80,000/- was transferred in account of Rima wife of Ramu, resident of Charkhi Dadri, who is known of his friend Dinesh, Rs. 6,80,000/- was transferred in account of Reena wife of Rohit, resident of Rewari, who is known of his brother-in-law Narender, Rs. 11,80,000/- against two bills was transferred in the account of Vikas son of Jagbir, resident of Kosli, District Rewari, who is known of Narender, Rs. 4,95,000/- was transferred in account of Suman wife of Dinesh, resident of Charkhi Dadri, who is wife of his friend Dinesh, Rs. 4,90,000/- was transferred in account of Tinku son of Kaptan Singh, resident of Charkhi Dadri, who is known of his friend Dinesh, Rs. 4,80,000/- was transferred in account of Krishan Gopal son of Dhan Sahai,* *resident of Rewari, who is known of his father-in-law Nathu Ram, Rs. 4,75,000/- was transferred in account of Mukesh son of Dhan Sahai, resident of Rewari, who is known of his father-in-law Nathu Ram, Rs. 3,92,000/- was transferred in account of Manish son of Rajesh Kumar, resident of Rewari, who is known of his father-in-law Nathu Ram, Rs. 4,95,000/- was transferred in account of Rohit son of Chhattarpal, resident of Rewari, who is known of his brother-in-law Narender, Rs. 6,90,000/- was transferred in account of Nathu Ram son of Dhani Ram, resident of Village Surehli, District Rewari, who is his father-in-law, Rs. 3,50,000/- was transferred in account of Kamlesh wife of Suresh, resident of Village Tigaon, District Faridabad, who is maternal-aunt of his wife, Rs. 6,30,000/- was transferred in account of Krishna wife of Nathu Ram, resident of Village Surehli, District Rewari, who is his mother-in-law, Rs. 5,70,000/- was transferred in account of Manender son of Nafe Singh, resident of Mini Bye Pass, Bhiwani, who is known of Pinki, Rs. 6,90,000/- was transferred in account of Pooja daughter of Virender, resident of Hindol, District Charkhi Dadri, who is daughter of his maternal-uncle. He further admitted that he used to give Rs. 20-30,000/- to all the account holders as an inducement. He met and got the money deposited in the accounts of the above 39 account holders, out of which, he kept about Rs. 45 Lacs with him and about Rs. 65 Lacs he gave to Niab Tehsildar Rampal Mor in different bills of different dates in cash. In the same manner, he gave Rs. 75 Lacs to Manoj Jangra in cash against different bills after month of March. He gave Rs. 25 Lacs approximately to Suresh Kumar Assistant Clerk, Treasury Office, Bhiwani, in exchange for getting the above bills passed as soon as possible. He had given approximately Rs. 15 Lacs in cash to Sunil Computer Operator at different times for preparing the bills. He had deposited Rs. 8,30,000/- in the account of Manish so of Devraj, resident of Baliali, who was known to Pinki and he had deposited Rs.*

81,250/- in the account of Nisha daughter of Bimla, resident of Pataudi, who did not return the money to him. While holding the post of Patwari in LAC Department, he along with Rampal Mor Niab Tehsildar, Manoj Kanungo, Sunil Kumar Computer Operator and Suresh Kumar Assistant Clerk of Treasury Office Bhiwani, prepared fake bills of land acquisition and deposited almost Rs. 2.50 Crores. District Revenue Officer Mr. Raj Kumar was in the confidence of him, Rampal Mor and Manoj Kanungo and due to their signatures on fake bills, DRO Mr. Raj Kumar used to sign those bills. DRO Raj Kumar was not known about these fake bills at that time. He himself used to take the bills to the treasury office and meet Suresh to get the bills passed and used to give 10% of each bill in cash to Suresh for getting the bills passed quickly. Out of the amount of Rs. 45 Lacs, which he received, Rs. 8.90 Lacs were deposited in the account of Narender son of Anjesh, Rs. 8.13 Lacs were deposited in the account of Laxmi wife of Pawan, Rs. 6.90 Lacs were deposited in the account of Pooja wife of Ravi, Rs. 6.90 Lacs were deposited in the account of Krishan wife of Nathu Ram, Rs. 6.30 Lacs were deposited in the account of his own and Rs. 93,600/- were deposited in the account of Vivek son of Prem Chand".

9. Further, a perusal of Para 04 of the State reply on merits would further clarify the position as regards the appointment of the petitioner and the same is reproduced hereinbelow:-

"4. That in reply to para no. 4 of the petition, it is submitted that during investigation, a letter bearing Memo No. 456 dated 04.05.2023 issued from the office of Land Acquisition Officer, PWD (B&R), Bhiwani, was obtained and taken into possession, wherein, the present petitioner has been informed as existing contractual manpower joined in department through HKRNL, working as on or before 31.03.2022 in the department and still

working in the office. Copy of this letter is being annexed herewith as Annexure R-2.Moreover, Annexure P-2 issued by Haryana Kaushal Rojgar Nigam Limited, Haryana, on the file reveals that the petitioner was deployed as Patwari at PWD(B&R) Bhiwani from 01.04.2023 to 31.03.2024. Moreover, the petitioner has attended the Court case, titled as "Ramesh Versus State of Haryana etc.", on 25.05.2023 being Patwari in Land Acquisition Collector, PWD (B&R) Department Bhiwani, during the period of alleged offence. The copy of court order dated 25.05.2023 is being annexed herewith as Annexure R-3. From the above facts and record, it is clear that the petitioner was working as Patwari in Land Acquisition Collector, PWD (B&R) Department Bhiwani, during the period of offence. As far as letter dated 25.08.2023 is concerned, that is matter of record. In fact, the petitioner has been working as Patwari in Land Acquisition Collector, PWD (B&R) Department Bhiwani, since year 2018".

10. From the investigation conducted so far, it has been categorically found that the petitioner prepared fake bills and transferred an amount of Rs.52 lacs into the accounts of his friends/associates. During further investigation, it transpired that the total misappropriated amount is approximately Rs.2.50 Crores. It has also been found that one Pooja wife of Ravi has received a sum of Rs.6,95,170/- against two bills and out of the said amount, Rs.1,50,000/- had been transferred by her in the account of the present petitioner on 20.05.2023 as was apparent from Annexure R-1. Further, though the petitioner has joined the investigation, he has not co-operated with the same as the forged bill, his mobile phone and certain other documents have not been got recovered. Even otherwise, as the offence stands *prima facie*

established from the investigation conducted so far, the question of granting anticipatory bail to the petitioner does not arise.

11. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

12. However, it is made clear that the observations made in this order are only for the purpose of deciding this bail application and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

(JASJIT SINGH BEDI)
JUDGE

March 06, 2024
sukhpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No