

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

219

CRM-M-61763-2023
Date of decision : 14.02.2024

Ashok Kumar Joshi @ Ashoke Joshi ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present : Mr. Arshdeep Singh Brar, Advocate
for the petitioner.

Mr. Kewal Singh, Addl, A.G. Punjab.

Mr. Balraj Sidhu, Advocate
for the complainant.

HARKESH MANUJA, J. (ORAL)

1. By way of present petition, the petitioner prays for grant of anticipatory bail to the petitioner in case FIR No. 168 dated 19.11.2023 under Section 379 of IPC, Section 13-A of the Punjab Village Common Land (Regulation) Act, 1961 registered at Police station Nihal Singh Wala, District Moga wherein the petitioner is alleged to have sold 40 trees which were grown at the site by the Gram Panchyat surrounding the water works and misappropriated the amount received against it.

2. On 20.12.2023 the following order was passed:-

“CRM-52759-2023

Prayer made in this application under 482 Cr.P.C. is for preponement of date of hearing of the main case which has already been fixed for 09.01.2024.

Notice in the application.

On asking of the Court, Mr. Anmol Singh Sandhu, Asstt. A.G., Punjab accepts notice on behalf of the respondent/State.

Having heard learned counsel for the parties; in view of averments made in the application and considering the fact that petitioner, who happens to be an old and suffering from various ailments, the prayer is allowed and the date of hearing of the main case is postponed for today. Applications is disposed of.

CRM-M-61763-2023

In continuation of order dated 08.12.2023, learned counsel for the petitioner submits that petitioner is even ready to deposit a sum of Rs.75,000/- as security with the concerned Panchayat without prejudice to his rights in the trial.

Adjourned to 09.01.2024.

In the meanwhile, petitioner will join investigation before the Investigating Officer as and when called and shall deposit a sum of Rs.75,000/- as security with the concerned Panchayat. In the event of his arrest, the Arresting Officer would admit him to interim bail, till the next date of hearing, on his furnishing adequate bail bonds/ surety bonds to his satisfaction. The petitioner is directed to abide by all the conditions as envisaged under Section 438(2) of Code of Criminal Procedure, 1973."

3. In pursuance of the abovesaid order, learned counsel for the petitioner informs the Court that a sum of Rs. 75,000/- has been deposited with the Gram Panchayat and has referred to receipt regarding the same dated 10.01.2024. Besides the learned State counsel informs that the petitioner has joined the investigation and is no longer required for custodial interrogation.

4. On the contrary, learned counsel for the complainant submits that the petitioner has embezzled a huge amount and therefore, he does not deserve the concession of anticipatory bail.

5. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

6. On a perusal of the report, referred to by the learned counsel for the complainant it cannot be ascertained even prima facie that the petitioner has embezzled the amount which was received against the construction of dispensary as the only finding is that the amount received against the sale of debris was not deposited with the authority.

7. In this view of the aforesaid, interim order dated 20.12.2023 is made absolute. However, the petitioner shall keep on joining the investigation as and when required to do so and he shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

8. The petition stands **disposed off**.

(HARKESH MANUJA)
JUDGE

14.02.2024
monika

Whether speaking/reasoned ? Yes/No
Whether Reportable ? Yes/No