



CRM-M-62493-2023 (O&M)

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

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**CRM-M-62493-2023 (O&M)
Date of Decision : November 18, 2024**

ROOPAN SACHDEVA**-PETITIONER**

V/S

UNION TERRITORY CHANDIGARH**-RESPONDENT****CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Kanwal Goyal, Advocate with
Ms. Japanjot Kaur, Advocate
Mr. Prince Singh, Advocate and
Mr. Amardeep Sandhu, Advocate
for the petitioner.

Mr. Manish Bansal, P.P., U.T. Chandigarh with
Mr. Ankur Bali, A.P.P., U.T. Chandigarh.

Ms. Navjot Lehal, Substitute Complainant, In-Person.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, as instituted under Section 438 of the Cr.P.C., prayer is made for grant of anticipatory bail to the petitioner, in case FIR No.09 dated 18.01.2018, under Sections 406, 420, 120-B of the IPC, registered at P.S. Sector 49, Chandigarh.

2. When the instant petition came up for initial hearing on 12.12.2023, a Co-ordinate Bench of this Court, after considering the fact that the present FIR embodies offence only under Sections 406, 420, 120-B of the IPC, extended the relief of interim bail to the petitioner and also directed her to join the investigation. Accordingly, the petitioner joined the investigation with the investigating officer concerned.



3. During pendency of the instant petition, the complainant interjected and filed various applications, supported by affidavits, thus claiming that the investigation in the present case is not carried out in the right direction.

4. When the instant petition came up for hearing before this Court on 03.10.2024, this Court considered the submissions made by the contesting litigants and passed the hereinafter reproduced order:-

“The gist of police ziminies, has been supplied to the Court by the learned Public Prosecutor for UT, Chandigarh.

It is apt to note here that earlier a cancellation report, which was filed by the prosecution agency, the same was not accepted and vide order dated 27.9.2022, as passed by the learned Illaqa Magistrate concerned, directions were issued to further investigate the matter on the points, as mentioned in the said order. Even the request was made that the Superintendent of Police, Chandigarh shall depute any senior officer to further investigate the matter.

Since 27.9.2022, no effective investigation has been carried out, and infact, the complainant is only made to join the investigation number of times.

Learned PP for UT, Chandigarh, seeks one more opportunity to conclude the investigation and also seeks an adjournment disclosing therein the role of the present petitioner, the antecedents and the incriminating evidence as on date collected by the prosecution agency. The affidavit shall be filed by the DSP concerned and shall also disclose the progress of investigation, as made till date.

Adjourned to 4.11.2024.

Interim order to continue till the next date of hearing. To be shown in the urgent list.”

5. The drawing of the hereinabove extracted order resulted in the investigating officer concerned, who was sitting over the present case file since 2018, hurriedly and without making compliance of the directions issued by the



learned Magistrate concerned on 27.09.2022, filing the Final Report after accepting police bail of all the 16 accused, some of whom are at presently abroad and never joined investigation.

6. Astonishingly, the complainant in the present case was made to run from pillar to post and she was made to join the investigation on number of occasions. Moreover, even the relevant documents produced by the complainant were not taken on record by the investigating officer concerned.

7. The hereinabove discussed conduct of the investigating officer, besides the plight of the complainant, propelled this Court to pen down the order dated 04.11.2024, thereby directing the Director General of Police, Chandigarh, to examine the entire investigation file of the present case, and thereupon, file his personal affidavit. The relevant portion of the order dated 04.11.2024 is reproduced hereunder:-

“...What surges forth from the status report is that, all the 19 accused persons were made to join the investigation, which includes the accused-Sarbjit Singh Bains and Gurpreet Kaur, who already left India, through virtual platforms, and, hurriedly a final report was filed without concluding the investigation on all the above issues, as raised by the learned trial Court concerned. Not only this, when this Court put a specific query to learned Public Prosecutor, as to whether he found any document, which has been forged, specifically when there are allegations that false entries have been made in the ledger book, the latter, on instructions from Inspector Om Parkash, SHO, Police Station Sector-49, Chandigarh, submitted that the investigation in this regard is yet to be completed. However, this fact has conveniently been concealed in the status report, which has been filed today in the Court. Furthermore, the status report reflects that, apparently the investigating agency has given undue benefit to the accused persons and not invoked the relevant penal provisions. Prima facie, the officer concerned, who has sworn the affidavit to file the status report, is guilty of perjury



for not disclosing the relevant facts before this Court. Apart from that, the entire investigation also seems to be shoddy and unprofessional.

This Court, before referring this matter to the CBI and before recording that the Chandigarh Police is incompetent to conduct proper investigation in the present matter, grants one more opportunity to the respondent to mend its conduct.

Moreover, the hereinabove discussed conduct of the police officials impels this Court to direct the Director General of Police, Chandigarh, to, after perusing the entire case file, furnish his personal affidavit, disclosing therein:-

- i) Whether, as directed by the learned trial Court concerned, the investigation in the instant FIR, on all the hereinabove extracted issues, has been carried out or not. In case, the same has not been done, then what action does he/she propose against the errant police officials/officers, including the one, who filed the status report (supra) on his affidavit*
- ii) As to how the final report, in the absence of two accused persons, namely, Sarbjit Singh Bains and Gurpreet Kaur, came to be filed before the learned trial Court concerned.....”*

8. In deference to the directions extracted hereinabove, today the learned Public Prosecutor has filed the affidavit sworn by Mr. Surendra Singh Yadav, IPS, Director General of Police, Chandigarh, which is taken on record. Copy of the affidavit is also supplied to the learned counsel for the petitioner and to the complainant, who is present in person.

9. What emanates from a studied survey of the affidavit (supra) is that, the complainant was again made to join the investigation on 06.11.2024 and the record of society was seized. After perusal of the case file, irregularities in record, tampering, cutting, overwriting, manipulation and forgery of record, fabrication of documents was *prima facie* found out, whereupon, Sections 467, 468 and 471 of the IPC have been added in the present FIR, through recording DDR No.57 dated 06.11.2024, at P.S. Sector 49, Chandigarh.



10. The affidavit (supra) further reveals that, in addition to the already nominated sixteen accused, one Jagdeep Singh (Senior Auditor) and Pardeep Kumar (Inspector (A) Gr-I of R.C.S.) have also been arrayed as accused on 06.11.2024 and investigation in respect of their specific role with regard to not highlighting the bungling of record of society is also under progress. Moreover, it also surges forth from the affidavit (supra) that, requisite steps are being taken to obtain non-bailable warrants against accused Pushpinder Kaur and Gurpreet Kaur, who were/are in abroad and were joined in investigation through virtual mode.

11. Insofar as the action proposed by the author of the affidavit (supra) against the errant police officials/officers is concerned, it is stated in the affidavit (supra) that, vide Memo No.2007/UT/DE/SSP Dated Chandigarh, the:- 15.11.2024, show cause notice has been issued to one Jaswinder Singh, Deputy Superintendent of Police-cum-SDPO (Sub Division South), thereby seeking explanation regarding concealment about the facts of the investigation in the status report, as also regarding failure on his part to supervise the investigation. Moreover, explanation has also been sought from him as to why departmental action may not be taken against him. Similarly, vide Memo No.2006/UT/DE/SSP Dated Chandigarh, the:- 15.11.2024, Memo No.2005/UT/DE/SSP Dated Chandigarh, the:- 15.11.2024, Memo No.2004/UT/DE/SSP Dated Chandigarh, the:- 15.11.2024 and Memo No.D-921/PA/SSP/Security & Traffic Dated 16.11.2024, show cause notice/explanation has also been sought respectively from Inspector Om Parkash (present investigating officer), Inspector Jasbir Singh, Inspector Jai Parkash Singh and Sub Inspector Satinder Kumar (Now Inspector) (the then investigating officer).



SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

12. The learned counsel for the petitioner vociferously submits that, neither the petitioner has been nominated as an accused in the present FIR, nor her name finds mention in the Final Report presented before the learned Magistrate/trial Court concerned. He further submits that, despite making requests to the court concerned, the petitioner has not been supplied copy of the Final Report.

13. The next argument constructed by the learned counsel for the petitioner is that, in the year 2003-2004, the petitioner remained posted as Treasurer of the Society concerned, and thereafter, she remained posted as Assistant Secretary and Press Secretary. Consequently, he argues that the petitioner was never privy to the accounts of the Society concerned and she never disbursed any amount, as she did not have authority to do so. Therefore, there arises no question that the petitioner is involved in embezzlement of the amount.

14. The learned counsel for the petitioner rests his arguments with the claim that, there is no incriminatory evidence available upto now against the petitioner to establish her guilt.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENT

15. *Per contra*, the learned Public Prosecutor vociferously opposes the grant of anticipatory bail to the petitioner. He claims that the submission (supra) made by petitioner's counsel regarding her posting during the relevant period is factually incorrect, inasmuch as, it has surfaced during investigation



that, Ajanta Co-op. House Building (FIRST) Society Ltd. was registered vide Registration No. 631 dated 09.05.2003 and since the inception the petitioner remained a part of the Managing Committee, i.e. from 08.06.2003 to 16.08.2008 (five consecutive terms). During this period, the petitioner held key positions of Treasurer and Secretary and also actively participated in decision making process. Moreover, her signatures on agreements and resolutions recorded in proceedings books for aforesaid period fixed her responsibility and accountability.

16. Concluding his arguments, the learned Public Prosecutor submits that, despite the petitioner being granted interim bail and directed to join investigation and cooperate with the investigating officer, yet she did not at all cooperate in the investigation, therefore, her custodial interrogation is required.

FINAL ORDER

17. This Court has heard the rival submissions of the learned counsels for the contesting litigants and also made a meticulous survey of the record. However, for the reasons to be assigned hereinafter, this Court does not deem it a fit and deserving case to grant the extraordinary relief of anticipatory bail to the petitioner.

18. During the course of investigation, it emerged that, during her tenure, the petitioner along with other executive members made major collections towards land costs and construction costs and for personal gains, they charged rate of interest ranging from 18% to 24% from ordinary members in violation of Standing Order dated 23.04.2004 passed by R.C.S. U.T. Chandigarh. According to the ledger concerned, total land cost collected from 150



members is ₹ 8,68,44,845/-, and, total construction cost collected from 150 allottee members is ₹ 18,57,58,607/-. Moreover, the petitioner was also one amongst those, who took key decisions for allotting contract for construction of 150 dwelling units and other works to different builders on different occasions.

19. What further emerged to the fore during investigation is that, during the relevant period, the petitioner along with other executive members approved the expenditure of society from time to time. Surprisingly, excess payment over and above the contract agreement was made to one Surindra Builders, hence ₹ 2,52,34,548/- is recoverable since the year 2006-2007 till date, but, the same has not been recovered by the accused despite repeated audit objections. Moreover, sums of ₹ 8,78,049/-, ₹ 3,72,005/- and ₹ 1,83,432/- are also recoverable under different heads from Surindra Builders, however, the same also remains yet un-recovered despite repeated audit objections. Furthermore, the petitioner along with other executive members also fraudulently obtained Fire N.O.C. without installing firefighting equipment in Ajanta Society.

20. During the course of investigation, the relevant record was obtained from various government departments and comparative analytical appraisal thereof revealed that:-

(i) Total embezzlement in land cost is ₹ 52,73,727/-;

(ii) Total embezzlement in construction cost is ₹ 6,78,16,623/-;

(iii) Total excess collections is ₹ 7,30,90,350/- (This amount is neither reflected in society trial balance and balance sheets, nor found in any of the society's bank accounts or FDRs).



21. Insofar as petitioner's conduct after securing interim bail from this Court is concerned, the record makes vivid display that, although the petitioner joined the investigation in pursuance to directions of this Court, however, she did not at all cooperate in the investigation, rather remained evasive to most of the queries posed by the investigating officer. Moreover, despite hers being granted numerous opportunities, the petitioner did not disclose the details of all bank accounts opened to deposit excess collected funds in land cost and construction cost and wherefrom amount was partially withdrawn and given to Chandigarh Housing Board in the shape of demand drafts towards land cost deposited by 150 eligible members. The relevant details are extracted hereunder:-

a. ₹ 1,53,61,450/- was deposited prior to allotment of land, vide letter No.1231 dated 24.01.2002;

b. ₹ 21,50,743/- was deposited on 23.02.2002;

c. ₹ 96,09,000/- was deposited on 10.06.2003;

d. ₹ 40,00,000/- was deposited on 22.07.2003 during the afore-said period.

22. Taking into account: (i) incorporation of Sections 467, 468 and 471 of the IPC in the present FIR during the course of investigation; (ii) the hereinabove discussed role of the petitioner and the inculpatory evidence collected by the investigating agency, which *prima facie* establishes guilt of the petitioner; (iii) gravity of the offence; (iv) petitioner's conduct that, under the garb of interim protection granted by this Court, she did not cooperate in the investigation, rather adopted all methods to scuttle the investigation; this

Court is not inclined to grant anticipatory bail to the petitioner.



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- 23. In summa, the instant petition is **dismissed**.
- 24. Pending application(s) stand disposed of accordingly.

November 18, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No