



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59423-2024
DECIDED ON: 28.11.2024

KAPIL

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Parvesh Jaglan, Advocate for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.308, dated 25.10.2024, under Sections 316(2), 318(4) of BNS, 2023, registered at Police Station Julana, District Jind.

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

“To, The SHO, Police Station Julana. Subject:- Application regarding embezzlement of cash by the manager at the petrol pump and theft of the pump copy. Sir, it is requested that I Ajay son of Akshay is permanent resident of village Kharanti tehsil Julana district Jind. That in my village Hathwala tehsil Julana district Jind, there is a petrol pump of HP company on Budhakheda Lathar road. Kapil son of Ramesh was working as manager mobile no. 9350446472 at my above mentioned

pump and all the accounts and cash transactions of the pump were in his hands. When I checked the pump accounts, embezzlement in cash was found in it. In which the manager has put a false signature which is as follows in which instead of Rs. 310 /- Rs. Instead of Rs. 31,000/- and Rs. 13,300/-, amount was written as Rs. 93,300/-, instead of Rs. 10.000/-, amount was written as Rs. 90,000/-, instead of Rs. 2,000/-, amount was written as Rs. 28,000/-, instead of Rs. 6449/-, amount was written as Rs. 64,490/-, instead of Rs. 51,500/-, amount was written as Rs. 61,000/-, instead of Rs. 3500/-, amount was written as Rs. 35,000/-, instead of Rs. 76,000/-, amount was written as Rs. 96,000/-, instead or Rs. 80,000/-, false amounts were written. Kapil, son of Ramesh Kumar is a resident of village Jalalpur Khurd. Apart from the above, many other false affidavits have been made, of which we have the bank list. He got the signatures made by mixing another copy of the account. In this, the above mentioned guilty manager has embezzled about seven to eight lakhs. Appropriate action be taken against the accused person and my above mentioned amount be returned. SD- Ajay Applicant Ajay son of Akshay Village Kharaanti Tehsil Julana District Jind 9812186004.”

3. Contention

On behalf of the petitioner

Learned counsel for the petitioner contends that there is no dispute qua the cash transaction which took place at petrol pump against the sale of petrol but the entries which are disputed by the complainant in the FIR relates to the transaction which was digitally made after scanning the QR Code, which was affixed by the complainant who is owner of the said

petrol pump and the said transaction was directly credited in the account of the complainant. He further contends that the petitioner was an employee at the petrol pump namely Satnam Filling Station (HPCL) as a Data Entry Operator at a fixed salary of Rs.10,000/- per month with the sole responsibility of preparing bills related to the Public Health Department added with the fact that he has no role in handling the cash or financial record and maintenance thereof and the said record including the cash book or ledger which always remain in custody of complainant himself. It has been further contended that on an earlier occasion, the complainant had filed a generalized complaint implicating all the workers of the petrol pump in the alleged embezzlement but subsequently the said complaint was withdrawn and replaced with a targeted accusation solely against the petitioner with the allegation of selective withdrawal and refileing which in itself suffice to raise doubt in the version of the complainant itself.

On behalf of the State

Learned State Counsel appearing on advance notice, could not substantiate the allegations with any cogent evidence including the ledger which is in possession of the complainant and the disputed entries are part of that ledger alone.

4. **Analysis**

Be that as it may, in the light of State's failure to produce any incriminating material today before this Court and the undertaking given by the learned counsel for the petitioner that the petitioner is ready and willing to join the investigation and cooperate with the Investigating Officer for concluding the investigation and reaching to a logical conclusion, this Court is of the considered view that whatever investigation is to be conducted by

and large would revolve around documentary evidence such like the ledger and cash book which are in possession of the complainant and can be examined by the Investigating Officer after taking the same into the possession which have not been taken so far by the Investigating Officer till date.

Considering in totality the facts and circumstances and discussions made hereinabove, it would be unjust and unfair to send the petitioner behind the bars for this kind of interrogation as the same is against the basic principle of 'Bail is a rule', 'jail is an exception' as elucidated in the judgement of Apex Court in "***Dataram Singh vs. State of Uttar Pradesh and another***;; (2018) 3 SCC 22".

5. **Decision**

Hence, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

'When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(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 480, 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 a period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

28.11.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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