

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215-2

CRM-M-64958-2023
Date of decision: 18.04.2024

BALKAR SINGH

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. S.S. Majithia, Advocate
for the petitioner.

Mr. Raghav Garg, AAG, Punjab.

KULDEEP TIWARI. J.(Oral)

1. On the last date of hearing i.e on 18.01.2024, the following order was
passed:-

*"Both petitions have been filed for grant of pre-arrest bail,
arising from a common FIR, therefore, being amenable for common
decision, same are taken up together.*

*The instant petitions have been filed, under Section 438
Cr.P.C, with a prayer to enlarge the petitioners on pre-arrest bail in
case FIR No.109 dated 13.11.2023, for the offen under Sections 409
and 120-B of IPC, registered at Police Station Verowal, District Tarn
Taran.*

*The prosecution agency was brought into motion on a written
complaint made by the Civil Surgeon, Tarn Taran. The relevant
extract of the allegations levelled against the petitioners as culled out
by learned Sessions Judge concerned while declining the concession
of anticipatory bail reads as under:-*

*"3. Applicants-accused have been booked in the present FIR on the basis of an
application No. 1/2023/3467 dated 05.05.2023 received from the Office of Civil
Surgeon, Tarn Taran, with regard to irregularities and fraud committed by*

Ravinderpal Singh, Senior Assistant, CHC, Mianwind, whereby, it was alleged that Ravinderpal Singh, Senior Assistant, Mianwind, who has retired on 31.12.2022 from the Office of Civil Surgeon, Gurdaspur, had committed embezzlement of Rs 35,24,066/-, out of which Rs. 18,77,692/- were credited in the personal account of Ravinderpal Singh in Axis Bank and Rs. 16,16,374/- were credited in the account of Balkar Singh, Class-IV, CHC, Mianwind. A detailed inquiry on the application moved by Civil Surgeon, Tarn Taran, was conducted during the course of which it was revealed that amount of Rs.35,24,066/- pertains to the outstanding amount of 9 employees posted at CHC, Mianwind, but instead of disbursing the same to the said 9 employees, Ravinderpal Singh had credited the said amount in his account and the account of co-accused Balkar Singh and had misappropriated the same, pursuant to which, the present FIR came to be registered against applicants-accused.

Learned counsel for the petitioner-Ravinder Pal Singh submits that the instant FIR has been registered against the petitioner after his retirement, and also a departmental inquiry has been initiated against the present petitioners, but till date both the petitioners have not been served with chargesheet in the said inquiry.

He further draws attention of this Court to the Statement of the Accounts of the petitioner(s) to substantiate that the amount which inadvertently came into the account of petitioner, has been reverted back to the account of his employer, therefore, there cannot be any ingredient which can attract the provisions of Section 409 of the IPC, as there is no criminal breach of trust.

He further submits that the aforesaid issues are purely documentary in nature, and documents pertaining thereto, are already in possession of the complainant/department concerned, therefore, the custodial interrogation of the petitioners is not required.

Learned counsel for the petitioner-Balkar Singh submits that he is a IVth class employee, having no access whatsoever, to the transactions as alleged in his account. The transactions, if any, made, has been made by the department concerned and that too without his knowledge. Till date the departmental inquiry has not been completed to establish the said amount, which the petitioner-Balkar Singh has received, in his account and the said amount is more than his entitlement.

In view of the above, both the petitioners are directed to join the investigation, and on their doing so, the petitioners be released on

interim bail subject to their furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioners shall continue to join the investigation as and when called upon to do so, and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

Adjourned to 18.04.2024.

A photocopy of this order be placed on the file of the connected case."

2. Learned counsel for the petitioner submits that in pursuance of the order dated 18.01.2024, the petitioner had joined the investigation.
3. Learned State counsel, on instructions from ASI Baljinder Singh, submits that the petitioner had joined the investigation and he is not required for any further custodial interrogation.
4. In view of the statement made by learned State counsel, the interim order dated 18.01.2024, is hereby made absolute.

18.04.2024
amandeep

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No