

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4903-2024 (O&M)
Reserved on: 14.02.2024
Pronounced on: 21.02.2024

Jatinder Singh Dhillon
... Petitioner(s)
Versus
State of Punjab
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. R.S. Cheema, Sr. Advocate with
Mr. Ishan Khetarpal, Advocate
for the petitioner(s).

Mr. Harish Mehla, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
6	7.6.2018	Vigilance Bureau, Flying Squad-I, Punjab.	409, 420, 467, 468, 471, 201, 120-B IPC and Sections 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

1. After the dismissal of the first bail petition on merits by this Court, the petitioner has again come up before this Court by filing a second petition under Section 438 CrPC seeking anticipatory bail. Earlier, the petitioner had approached this Court by filing CRM-M-49093-2018 seeking anticipatory bail, and a coordinated Bench of this Court, vide order dated 13.11.2018, had dismissed the same on merits. The operative part of the said order reads as follows: -

“Keeping in view the facts and circumstances of the present case and in view of the serious allegation regarding embezzlement and misappropriation etc. against the present petitioner also, I find that petitioner is required for custodial interrogation and no ground is made out for grant of anticipatory bail to him. Therefore, find no merit in the present petition, the same is dismissed”

2. A perusal of the above shows that despite this Court having made clear-cut observations that the petitioner is required for custodial interrogation and no ground is

made out for grant of anticipatory bail, the investigator chose not to arrest the petitioner.

3. On the directions of this Court, concerned DySP filed a detailed reply dated 14.2.2024, the operative part of which reads as under:-

- “2. That the present FIR has been registered against the petitioners on the basis of the information received from the reliable sources and the brief facts of the FIR are that Petitioner being the BDPO cum Executive Officer and co-accused Resham Singh/Chairman, Panchayat Samiti, Kharar have issued various cheques in the name of firm J.R Printing Press, total amounting of Rs. 47,60,021/- and in connivance with the co-accused Puneet Mittal and Jeet Paul Mittal who are the partners of the printing press have misappropriated the Government Funds of Rs. 47,60,021/-. Further, while purchasing the stationary items, the rules laid down by the department have been totally ignored by them and moreover, no specifications were quoted in the quotation regarding the quality of the purchase items. Further, also no entry has been made in the stock register of Block Samiti regarding the purchase items and material supplied by the J.R Printing Press.
3. That it is pertinent to mention here that the Petitioner/Jatinder Singh Dhillon BDPO cum Executive Officer Panchayat Samiti Kharar and Resham Singh Chairman of Panchayat Samiti Kharar issued a total of five cheques in the name of J.R Printing press Nabha Gate, Sangrur, total amounting to Rs. 47,60,021/-, for purchasing of stationary items for the gram panchayats i.e. Proceeding Books, Cash Books, Stock Registers, Muster Rolls and Lease Registers etc. and the co-accused Puneet Mittal and Jeet Paul Mittal also generated the bills of the same. The details of the cheques and bills are as follows:-
 - i. Cheque no. 0008 dated 27.06.2016 amounting to Rs. 3,44,000/- and the bill no. 1852 was generated on 27.06.2016 regarding this amount by the above said Firm of the co-accused.
 - ii. Cheque no. 505907 amounting to Rs.5,50,000/- and bill no. 1851 was generated on dated 19/6/2016 regarding this amount by the above said Firm of the co-accused and its details are also mentioned in the Voucher no. 27 dated 19/8/2016.
 - iii. Cheque no.000011 amounting to Rs.10,25,271/- dated 19/9/2016 and bill no. 1405 was generated on dated 17/9/2016 regarding this amount by the above said Firm of the co-accused and its details are also mentioned in the Voucher no. 17 dated 19/9/2016.
 - iv. Cheque no.000012 amounting to Rs.11,59,200/- dated 19/9/2016 and bill no. 1406 was generated on dated 16/9/2016 regarding this amount by the above said Firm of the co-accused and its details are also mentioned in the Voucher no. 18 dated 19/9/2016.
 - v. Cheque no.000013 amounting to Rs.16,81,550/- dated 19/9/2016 and bill no. 1407 was generated on dated 12/9/2016 regarding this amount by the above said Firm of the co-accused and its details are also mentioned in the Voucher no. 19 dated 19/9/2016.
4. That accordingly, the complete amount of above said cheques was drawn into the accounts of the co-accused/Puneet Mittal and Jeet Paul Mittal and the co-accused after receiving the above said amounts failed

to supply the required material i.e. Proceedings Registers, cash books, Stock registers etc. and books of Punjab Panchayati Raj Act and other materials to the Block office and the complete amount of public money was usurped by the Petitioner/Jatinderpal Singh Dhillon, being the Block Development and Panchayat Officer- cum- Executive Officer, Panchayat Samiti, Kharar in connivance with the Puneet Mittal and Resham Singh Chairman, Panchayat Samiti Kharar and all the above said in connivance with each other caused financial loss to the tune of Rs. 47,60,021/- to the Government and caused illegal gain for themselves. Thus, the petitioner in connivance with co- accused persons i.e. Puneet Mittal and Jeet Paul Mittal and Resham Singh, chairman, Panchayat Samiti Kharar, misappropriated government money.

5. That apart from present FIR No. 2, dated 20.02.2018 was also registered against the present petitioner and others, under section 13(1)(D) read with sections 13(2) of Prevention of Corruption Act, 1988 and 409, 420, 465, 467, 471, 120-B of IPC at Police Station Vigilance Bureau, Flying Squad-I, Punjab at Mohali. Subsequently, the present petitioner was arrested on 20.02.2018 in this case FIR No. 2 and further, he was ordered to be released on regular bail by co-ordinate bench of this Hon'ble Court in CRM- M-21941 of 2018 vide order dated 28.05.2018. Thereafter, present FIR No.6, dated 07.06.2018 was registered against the present petitioner and others under sections 13(1)(D) read with section 13(2) of Prevention of Corruption Act, 1988 and 409, 420, 467, 468, 471, 120-B of IPC at Police Station Vigilance Bureau, Flying Squad-1, Punjab at Mohali. Subsequently, the present petitioner has also filed petition bearing number CRM-M-49093 of 2018 for grant of anticipatory bail to this Hon'ble Court, which was dismissed by this Hon'ble Court vide order dated 13.11.2018 and the petitioner has not challenged this order in the Hon'ble Supreme Court of India.
6. It is brought to the kind notice of this Hon'ble Court that during hearing of anticipatory bail application of the present petitioner in case FIR No. 11, dated 31.12.2018, Ravinder Singh, PPS, Deputy Superintendent of Police/ investigation officer of Vigilance Bureau Mohali unit made a categorical statement that he has no objection if the applicant (present petitioner) be directed to join the investigation, whereby, the court of Additional Session Judge, Mohali was pleased to direct the applicant (present petitioner) to join the investigation and co-operate with the investigating agency vide order dated 14.02.2019. Thereafter, the learned trial court had made this order absolute on 05.03.2019 in view of the statement made by Inspector Inder Pal Singh that the applicant (present petitioner) has joined the investigation and is not required for further custodial interrogation.
7. It is worth to mentioning here that the present petitioner has submitted a representation to the Chief Director, Vigilance Bureau, and Punjab, wherein, he had mentioned that the present FIR was wrongly registered against him due to personal/political vendetta and its further investigation should be marked to some senior officer and prayed for cancellation of the FIR. Thereafter, Director, Vigilance Bureau, Punjab marked this representation for consideration to Senior Superintendent of Police, Vigilance Bureau, Mohali on 26.12.2018 to. Subsequently, all the facts and circumstances of the cases registered against the present petitioner pertaining to alleged embezzlement of funds of Panchayats and Panchayat Samiti, Kharar, the facts disclosed in the course of investigation and other relevant considerations during the tenure of the present petitioner as BDPO-cum-Executive Officer, Panchayat Samiti, Kharar it was decided that the allegations of bogus purchase of

stationery and flex boards vide 5 different bills will be investigated during investigation of the present case FIR No. 6, similarly, the allegations of wrongful purchase of RCC benches vide 2 separate bills will be investigated during investigation of FIR No. 8 and remaining alleged embezzlement of Panchayat Samiti funds will be investigated during investigation of FIR No. 41. Also, alleged embezzlement in the funds of Panchayat of Village Manouli will be investigated during investigation of FIR No. 11. Moreover, the present petitioner /Jatinder Singh Dhillon had already undergone custodial interrogation and judicial custody in case FIR No. 2 pertaining to embezzlement of Panchayat funds of Village Jheurheri, whereby, it was decided that the present petitioner should not be arrested immediately and appropriate decision would be followed subject to the outcome of each case.

8. It is pertinent to mention here that when the petitioner visited the Vigilance Bureau to join the investigation in FIR no. 11 dated 31.12.2017 as per the order dated 14.09.2019, on the same day the petitioner has also joined investigation in the present case i.e FIR No. 6, as both the investigating officers have offices in the same premises and the representation filed by the present petitioner in the present case Fir No. 6 has reached the Investigation Officer for consideration. Moreover, the present petitioner has also joined investigation in the other 2 remaining cases that is FIR No. 8 and FIR No. 41, according to the order of senior officials of Vigilance Bureau, Flying Squad -1, SAS Nagar. Thereupon, after joining the investigation by the petitioner, the challan has been filed by the investigation agency on 14.12.2022. Now, the next date before the trial is fixed for 28.02.2024.
9. Thereafter, after completion of investigation, cancellation report was submitted against the present petitioner and other co-accused persons in case FIR No. 8 and also challan/ Final report under section 173(2) Cr.P.C. was submitted in the learned trial court against the present petitioner and other co-accused persons in the present case FIR No. 6, wherein, the present petitioner and co-accused Jeet Pal Mittal and Puneet Mittal were not arrested by the investigating agency. Similarly, final report under section 173(2) Cr.P.C presented in the learned trial court against the present petitioner other co-accused persons, wherein, co-accused Harjit Singh Walia was not arrested during investigation. The investigation pertaining to case FIR No. 41 is still under way and most of the accused have joined investigation but not arrested by the investigating agency."

4. Counsel for the State opposes the bail on the grounds of maintainability. He submits that if this Court entertains this petition, it will amount to recalling the well-reasoned order dated 13.11.2018 passed by the coordinate Bench of this Court, which is not permissible under Section 362 CrPC.

5. The explanation offered in this reply is simply an attempt to cover up. When this Court dismissed the earlier bail petition on 13.11.2018, the State of Punjab was duly represented by the Assistant Advocate General concerned. A perusal of the order dated 13.11.2018 points out that the State's counsel had contested the petition, and the Court had also heard counsel for the State. Thus, the coordinate Bench dismissed the bail petition after giving the State of Punjab ample opportunity for a hearing. As per

the reply, the said order remained unchallenged. During further investigation, if the investigator had concluded that the evidence collected in the investigations pointed out the petitioner's innocence and they wanted to absolve him of all the accusations, then the situation would have been different, and there would have been no justification to arrest the petitioner. However, that is not the case. The prosecution has been launched, and they have also filed a report under Section 173 CrPC without arresting the petitioner. Given this, let the Director General of Police look into the matter at his level, either himself or by delegating it to an officer, not below the rank of an IPS cadre. He does not need to submit any report to this Court because they must respect the Court's orders.

6. At this stage, Mr. Cheema, learned senior counsel, on instructions, submits that the petitioner be permitted to file a regular bail petition under Section 439 CrPC before the trial Court with a prayer for interim bail and at the time of filing such bail application, his appearance in the Court be considered as deemed surrender. He has referred to the judgment of the Hon'ble Supreme Court in *Sandeep Kumar Bafna Vs. State of Maharashtra* 2014(16) SCC 623.

7. The primary object is to secure the accused's presence in trial. The petitioner has approached this court independently, establishing the *bona fide*. Given the explanation the accused offered and the facts and circumstances peculiar to this case, a balanced approach would work as an incentive, a catalyst, speeding up the process and bringing the guilty to Justice and Justice to the guilty.

8. The fundamental reason to allow this petition is that it cannot be believed that the petitioner could not have been apprehended during the time when he had not filed the bail petition before the Sessions Court or after its dismissal by the Sessions Court. The steps taken to arrest the petitioner were not extensive, which could have resulted in his nabbing. It is impossible to believe that the petitioner, despite being a police officer, would have managed to skip and evade the arrest. As such, it points out that if the concerned police department had been serious about arresting the petitioner, no one could have stopped them. This is an additional ground based on which this Court is granting bail to the petitioner.

9. Without commenting on the case's merits, and in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the ends of justice would meet by the following order. This court deems it appropriate to grant the following

limited relief to the petitioner, subject to compliance with the conditions mentioned in this order.

10. In case the petitioner files a petition under Section 439 CrPC before the trial Court, on or before 05.03.2024, then this Court requests the trial Court to grant him interim bail till the decision of such regular bail petition. It is further clarified that the order in the regular bail shall not be pronounced on the date when trial is fixed, and the trial Court shall not insist for the appearance of the accused on the date of pronouncement of order in regular bail petition. This is to enable the petitioner to come to this Court in case need arises under Section 439 CrPC on similar terms.

11. The petitioner is directed to surrender before the concerned trial court on or before 05.03.2024 and file a bail petition. On his appearance and filing of bail application, the concerned Court shall release the petitioner on interim bail on the same day, subject to furnishing bail bonds to its satisfaction and imposing reasonable conditions as it may deem appropriate in the background of the accused’s conduct till the date of disposal of his bail application.

12. The petitioner shall not be arrested till 5 PM of 05.03.2024 and it is clarified that if the petitioner does not appear before the concerned court by 05.03.2024, then this order shall stand eclipsed automatically and this order shall stand recalled automatically without any further reference to this Court under Section 362 CrPC.

13. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

14. *There would be no need for a certified copy of this order, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petition is disposed of with the aforesaid observations. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

February 21, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes