



110

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

CRM-M No.64459 of 2024

Date of Decision: 19.12.2024

Pardeep Singh

..... Petitioner

Versus**State of Punjab**

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. G. P. S. Ghuman, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present petition has been filed praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.74, dated 04.10.2024, under Sections 420, 409 and 120-B of IPC, registered at Police Station Ladhuwal, District Police Commissionerate Ludhiana (Annexure P-1). Further prayer has been made for exempting the petitioner from filing certificate copies of Annexure P-1 to P-5 and allowing to place on record true translated/downloaded photocopies of Annexures P-1 to P-5.

2. Succinctly the facts of the case are that initially the inquiry was conducted on the complaint filed by Vinod Kumar, Depot Manager. It has been alleged that the complainant was manager of the company and the pesticides was supplied to the Cooperative Societies in Punjab



through Markfed. Pardeep Singh Kooner i.e. the petitioner was the Field Officer, who had committed the breach of trust by way of fraud and cheating lakhs of rupees. As per inquiry report, Pardeep Singh misrepresented the officials of Markfed through the drivers of vehicles hired by him. The pesticides, instead of being deposited in the company, the same were illegally loaded through hired vehicles at the godown of Punjab Sales (Pickles) Hindustan Pesticides Samrala owned by Amit Gupta. Both the accused i.e. Pardeep Singh (petitioner) and Amit Gupta in connivance with each other further sold these pesticides to Sushil @ Shila and Sahil, owners of shops of Punjab Agro and Punjab Agricultural Centre, Vegetable Market, Kharar through different vehicles. Thus the FIR was registered for taking action against the culprits. Apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, Ludhiana praying for the grant of anticipatory bail. However after hearing both the sides, finding no merit in the same, the learned Additional Sessions Judge, Ludhiana dismissed the petition filed by the petitioner vide his order dated 04.12.2024. Hence the petitioner is before this Court by way of filing the present petition praying for the grant of anticipatory bail.

3. Learned counsel for the petitioner has vehemently contended before this Court that the petitioner has been falsely implicated in this case. He has submitted that the petitioner is roped in the present FIR on the basis of presumptions and assumptions as there is no evidence in support of the allegations made in the FIR. He has submitted that the



ingredients of Section 409 IPC are not made out against the present petitioner as he was never employed by the complainant's company. He has submitted that the allegations made are totally based on documentary evidence which are already in the custody of the complainant and thus, there is no possibility of tampering of the same. He has further submitted that there is a delay of 10 months in registration of the FIR and during the preliminary investigation, the petitioner was not afforded any opportunity and thus, the inquiry conducted cannot be relied upon. He has submitted that co-accused, namely, Amit Gupta has already been granted interim bail by this Court in CRM-M-52683-2024 vide order dated 22.10.2024 and thus the petitioner deserves to be granted anticipatory bail.

4. Notice of motion.

5. On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent-State.

6. At this stage, Mr. Hemant Bassi, Advocate has appeared on behalf of the complainant. He however has opposed the submissions made by learned counsel for the petitioner and has submitted that the petitioner was working as a Field Assistant, who has committed the criminal breach of trust. He has submitted that the complainant filed the complaint initially which was duly inquired into and the allegations were substantiated during the inquiry and it is thereafter the FIR was registered. He has submitted that co-accused, Amit Gupta has been granted the interim protection on the ground that in all he had paid Rs.21,00,000/-. He has submitted that role of the petitioner is different



from that of the co-accused. He has submitted that the petitioner is the main accused and the investigation is at the initial stage and thus no case is made out for granting anticipatory bail to the petitioner.

7. Learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has also submitted that during the preliminary inquiry, complicity of the petitioner was established and it is only thereafter, the FIR was registered. He has submitted that custodial interrogation of the petitioner is essential for unraveling the mystery. He has thus submitted that the petition being devoid of any merit deserves to be dismissed.

8. The Court has heard learned counsel for the parties and perused the record with their able assistance.

9. It is apparent from the perusal of the record that the complaint was filed by complainant, namely, Vinod Kumar, which was duly inquired into and on the basis of inquiry report, the present FIR was registered. The petitioner was working as a Field Assistant. The allegations pertain to the embezzlement committed by him by misusing the position. The investigation is at threshold and the allegations against the petitioner are of serious nature.

10. For the consideration of anticipatory bail, the statutory parameters are given under Section 482 (1) & (2) BNSS which reads as under:-



“Direction for grant of bail to person apprehending arrest:

1. *When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.*
2. *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.”*

11. As per the law settled by the Hon'ble Supreme Court, in ***Gurbaksh Singh Sibbia Vs. State of Punjab***, AIR 1980 SC 1632, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would always prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

“31. *In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested,*



a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the



acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.”

12. The Hon'ble Supreme Court in ***State Vs. Anil Sharma***, (1997) 7SCC 187, held as under:-

“6.We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

13. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been prima facie found. Needless to say, the investigation is at threshold and in the facts

and circumstances, custodial interrogation of the petitioner would be essential and granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

14. In view of the overall facts and circumstances of the case, the petitioner do not qualify for the grant of anticipatory bail and the same is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

19.12.2024
rittu

(RAJESH BHARDWAJ)
JUDGE

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