



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

308

CRM-M No.65587 of 2024
Date of decision: 17.02.2025

Kiran Bala and another
.....Petitioners
Versus
State of Punjab
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gaurav Chopra, Sr. Advocate
with Ms. Himani Jamwal, Advocate
and Ms. Dheerja, Advocate for the petitioners.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. S.S. Swaich, Advocate
with Ms. Ishani Goyal, Advocate
Ms. Navjot Kaur, Advocate
and Ms. Deepika, Advocate for the complainant.

HARPREET SINGH BRAR J. (Oral)

1. This petition has been filed under Section 482 of BNSS, 2023, seeking anticipatory bail in case FIR No.0128 dated 04.12.2024 registered under Sections 406, 420, 120-B IPC, at Police Station Bassi Pathana, District Fatehgarh Sahib.

2. On 30.12.2024, the following order was passed:-

“XX XX XX XX
Learned counsel for the petitioners submits that petitioner nos.1 & 2 is the mother and wife of main accused Sheetal Kumar, respectively, against Sheetal Kumar earlier also the allegations were made by one Om Prakash Sachdeva which were found to be of purely civil in nature. Thereafter, the second complaint under Section 156(3) Cr.PC was filed by the wife of Om Prakash Sachdeva present complainant based upon which the

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present FIR has been lodged.

Sum and substance of the allegations are that Sheetal Kumar was a close relative and was employed by Om Prakash Sachdeva and by winning the trust of the complainant, he misappropriated the funds and disbursed through the account of present petitioners who happens to be the mother and wife of Sheetal Kumar.

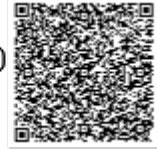
Notice of motion.

Mr. Anil Bansal, DAG, Punjab, accepts notice on behalf of the State assisted by Ms. Ishani Goyal, Advocate, who accepts notice on behalf of the complainant have vehemently opposed the present petition and submitted that Sheetal Kumar is absconding from the process of law and had embezzled huge amount of Om Prakash Sachdeva by misusing the faith and trust. Sheetal Kumar was employed with Om Prakash Sachdeva as he was well versed with the working of the computers and mobiles, thus had gain trust of Om Prakash Sachdeva, on the basis of which he got funds transferred from the clients of Om Prakash Sachdeva directly into the accounts of present petitioners and also defaulted in depositing the Government fees as Om Prakash Sachdeva is an Architect approved by the Punjab Government.

Learned counsel for the petitioner reiterates that there is no direct allegations against the present petitioners with regard to any misappropriation of funds and the only reason for their entanglement in the present FIR is that certain amounts were deposited in their accounts about which the petitioners had no knowledge. Admittedly, Sheetal Kumar is still absconding from the process of law, however, counsel for the petitioner on instructions has submitted that Sheetal Kumar has also applied for grant of anticipatory bail which is pending before the Court of competent jurisdiction.

Learned counsel for the complainant reiterates that it is an economic offence and the petitioners are not entitled to the concession of anticipatory bail as their custodial interrogation is required, which could lead to more recoveries apart from their bank details such as mobile phones and other electrical gadgets and it could not be ruled out that the petitioners have actively connived in embezzlement of cash flow which is yet to be recovered.

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Heard learned counsel for the parties.

Apparently, the only allegations in the complaint are with regard to deposit of some funds in six bank accounts out of which three belongs to the present petitioners. Since the main accused Sheetal Kumar is still on the run, so as the interim measure petitioner no.1 is directed to join investigation on 10.01.2025 at 11.00 AM before the Investigating Officer and cooperate with the Investigating Agency even thereafter.

*Learned counsel for the petitioners also raise the issue that there is no compliance of provisions of Section 35 of BNSS, 2023 (Section 41A of Cr.PC) to which counsel for the State submits that the matter is still under investigation and the dicta of **Arnesh Kumar Vs. State of Bihar and another [(2014) 8 S.C.R. 128]** shall be followed.*

In the event of arrest, the petitioner no.1 shall be released on interim bail subject to furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer and shall abide by the conditions as envisaged under Section 482(2) of BNSS 2023, however, qua petitioner no.2, matter would be looked into on the next date of hearing.

As regards, petitioner No. 2 who is the wife of main accused, the matter is adjourned to 17.02.2025 without commenting upon the merits of the case at this stage.

However, it is made clear that this order shall not be construed as parity qua any other co-accused.”

3. Learned State counsel, on instructions from ASI Pawan Kumar, at the very outset, submits that although in pursuance to the order dated 30.12.2024, petitioner No.1 had appeared before the Investigating Officer on 10.01.2025, however, she did not join the investigation at 11:00 AM as directed by this Court and as such, she was not joined in the investigation.

4. Learned Senior counsel for the petitioners submits that the role of petitioner No.1 and petitioner No.2 are identical in nature and



both the petitioners are household ladies and the veracity of the allegations made in the FIR has been thoroughly examined on five occasions and it was concluded that the dispute between the parties is purely civil in nature.

5. Per contra, learned counsel for the complainant vehemently opposes the prayer made by the petitioners on the ground that the petitioners have embezzled crores of rupees, along with their family members benefiting from the misappropriated amount, which was siphoned off by co-accused Shital Kumar.

6. Accordingly, keeping in view the law enunciated by the Hon'ble Supreme Court in ***Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833***, both the petitioners are directed to appear before the Investigating Officer on 24.02.2025 at 11:00 AM sharp and on doing so or in the event of arrest, they shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of the Investigating/Arresting Officer. The petitioners shall cooperate with the Investigating/Arresting Officer and abide by the conditions as provided under Section 482 (2) of BNSS.

7. If the Investigating/Arresting Officer does not permit the petitioners to join the investigation, the petitioners would appear before

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the Illaqa Magistrate, who would then summon the Investigating/Arresting Officer and direct him to join the petitioners in investigation, in terms of the order of this Court.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

9. The petition stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

17.02.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No