

IN THE COURT OF SH.H.S. GREWAL  
SPECIAL JUDGE, PATIALA

Filing No. BA2978 of 2022  
CNR No. PBPT01-0094472022  
Date of Order:09.09.2022

Parmod Kumar Garg, aged about 44 years son of Sh.Som Pal Garg, R/o Quarter no.30, T-5, Near Ram Ashram, Ghalouri Gate, Patiala presently posted as Science Teacher, Village Bhasmarha, Tehsil and District Patiala.  
....Applicant

Vs.

The State of Punjab.

....Respondent.

Application for bail u/s 438 Cr.P.C  
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Present: Sh.Abhinav Thapar, Advocate for the applicant  
Sh.Sumit Malhotra, Ld. Addl.PP for State

ORDER

1. This order of mine shall dispose of an application for anticipatory bail filed on behalf of applicant, in FIR No.20 dated 22.8.2022 under sections 409,420,120-B IPC, 13(1) (a) read with section 13(2) 88 PC Act, P.S.Vigilance Bureau, Patiala.

2. In pursuance of notice of the application having been issued, the learned Addl.PP for the respondent-State has put in appearance. Record has been produced by SI Ashok Kumar. Report of Ahlmad has been perused, as per report of Ahlmad, no application filed by the applicant is pending nor any application has been decided by the Hon'ble High Court. Learned Addl.PP for the State has also rendered the assistance that as per investigating officer, no application filed on behalf of applicant is pending or has been decided by any court of law till date.

3. Learned counsel for applicant has vehemently argued that the applicant alongwith others have been falsely implicated in the

present case on the basis of FIR which was lodged bearing No.20 dated 22.8.2022 qua the offences under IPC and Prevention of Corruption Act. The applicant was previously posted as Inspector in Food Supply Department and had remained posted at Samana, Ghagga and Patran, but he after seeking the permission from the department has joined as science teacher. During the course of his service, he has been performing his duties diligently and without any blemish in his service record. The allegations against the applicant in no manner substantiate as to his having embezzled any stock of wheat nor from the documents produced by prosecution, it shows that during the said period the applicant was in service. The applicant had joined on 4.9.2015 and has handed over all the record, which was complete and there was no entry or any objection qua any shortage having been pointed out at that stage. No inquiry was conducted nor any complaint was filed against the applicant. The allegations against the applicant Parmod Kumar are as to his having not submitted the record, but he had handed over charge to Rajwinder Singh on dated 8.6.2015. After handing over the charge, applicant was relieved by the Food Supply Department and thereafter he has joined as science teacher. The applicant has placed on record documents i.e. letter No.224 dated 8.6.2015 written to Assistant Food Supply Officer qua his transfer and that he be relieved. Letter No.227 dated 8.6.2015 is regarding the taking over the charge, which has been assigned to the Food Inspectors who had appended their signatures qua taking over the charge. Another letter by Assistant Food Supply Officer is as to relieving of the applicant in pursuance of his letter and request so made and he be directed to join new place of posting at Ghagga. Copy of order dated 23.11.2016 passed by the Director Food and Civil Supplies vide which the request of the

applicant was accepted for joining Education Department as science teacher. Thereafter, the applicant had joined in the Education Department. He has argued that besides that an inquiry was also conducted by Learned Additional District and Session Judge (retired) Sh.B.C.Gupta, which was against Deep Kumar Garg and others and it has been found therein that the allegations contained in the charge sheet were substantiated only against Jaspreet Singh, Havinder Singh, Jaswinder Kumar, Rajwinder Singh and Rahul Kumar, whereas charges against Deep Kumar Garg and Manjinder Singh were not established and they were exonerated of the charged framed against them. He has argued that when the allegations as per the inquiry so conducted were found only against five persons to have been established, thus the lodging of FIR is nothing, but dragging the applicant alongwith others in criminal litigation. As the case is based upon the documents and the applicant is neither posted nor has any domain over the record, as such, he cannot influence during the investigation. Besides that the applicant was accorded ACP, which is accorded only when there was nothing against the applicant, while working in the department. The applicant is ready to abide by the directions if any imposed by the Court. He has placed reliance of case titled as Jasbir Singh Ahluwalia Vs. State of Punjab, 2002(3) R.C.R. (Criminal) 485 (P&H) wherein it has been held as under;

Section 438-Prevention of Corruption Act, 1988, Section 13(2), Accused Vice Chancellor of University-Case of Corruption and Misuse of authority-Bail allowed on following considerations;

(1) Accusation based on record which was in possession of investigating agency.

- (2) Accused ceased to be Vice Chancellor and was not in a position to exercise influence over employees of University to tamper or destroy record.
- (3) Prosecution could not record statement of any witness showing payment of bribe money.
- (4) Accused put no hindrance during interim bail (5) No possibility of accused fleeing from justice.

The application be allowed.

4. On the other hand, learned Addl.PP for State has hotly opposed the contentions and has argued that there are serious allegations against the applicant and others. It was upon the application was filed by Ram Sarup Jain to DGP Punjab and IG Vigilance for conducting the inquiry into the embezzlement to the wheat stock. Inquiry was conducted by Inspector Pritpal Singh and also by inspector Ramphal. Allegations were qua the embezzlement of wheat stock from December 2013 to March 2016. Learnd Addl.PP has further argued that as there are serious allegations and investigation is still to be completed which is at the initial stage.

5. After giving my thoughtful consideration to the rival submissions and on careful perusal of the averments put in the application, the contents of FIR, the record produced by SI Ashok Kumar coupled with due assistance rendered, it is pertinent to make mention that on the basis of application moved by Ram Sarup Jain, inquiry was conducted firstly by Inspector Pritpal Singh and thereafter by Inspector Ramphal, qua the allegation of shortage of wheat meant for distribution under the scheme for providing the same to the people who were below the poverty line i.e. from December 2013 to March 2016. It has been allegedly found by the technical team as to there being shortage/embezzlement of the wheat stock meant for distribution to the

people below the poverty line under the said scheme. Allegations against the applicant are that while he was posted at PTL Zone 17 Samana Centre from December 2013 to May 2014, then June 2014 to November 2014, no record has been handed over and further that during the said period, it has been allegedly found as to shortage of 2456.35 quintals of wheat worth Rs.35,00,255/-. Much emphasis has been laid by learned counsel for applicant as to applicant having left the Food Supply Department on dated 23.11.2016 and his having joined in the Education Department as science teacher and further that at the time of his posting at Samana, he had handed over the charge to Rajwinder Singh on 8.6.2015 and further that charge receiving report has been signed by Inspectors of Food Supply Department. But, at this stage taking into note the serious and grave allegations and further the embezzlement is qua the shortage of wheat 26868.75 Quintals worth Rs.3,85,49,552/-, the court does not find any force in the submission put forth by learned counsel for applicant. Thus, taking into note the said factum and that the provisions have been enshrined under section 438 Cr.P.C to protect the innocent citizens, but are not to be invoked for shielding a wrongdoer. Hence, to facilitate the thorough and fair investigation, rather the custodial interrogation of the applicant is inevitable. The application being devoid of any merit is hereby dismissed. Police record has been returned. File be consigned to the record room.

Pronounced  
September 9<sup>th</sup> 2022

(H.S. Grewal)(PB0081)  
Special Judge  
Patiala.

Typed by Seema Rani  
Stenographer Gr. II