

**In the Court of Sh.Harbans Singh Lekhi,
Additional Sessions Judge, Faridkot.
(Unique Identification No.PB0113)**

Case Type	BA
Case No.	124 of 12.2.2021
Registration/CIS No.	172/2021
CNR No.	PBFD01-000572-2021
Date of Order	23.2.2021

Darshan Singh, aged about 58 years, son of Dara Singh, Block Primary Education Officer, Jaitu, now Block Primary Education Officer, Bathinda, resident of village Jeeda, Tehsil and District Bathinda.

.....Accused-applicant

Versus

Sanjeev Kumar son of Des Raj, resident of Surga Puri, Kotkapura, District Faridkot.

..... Respondent

In Re: Complaint titled as “Sanjeev Kumar Versus Poonam and others”, under Sections 7,13(2) of Prevention of Corruption Act and Sections 420,465,467,468, 471,120-B IPC.

Application under Section 438 Cr.P.C.

Present:- Sh.Sandeep Singh Jeeda, Advocate, counsel for applicant-accused.
Shri V.K.Monga, Advocate, counsel for respondent/complainant.

ORDER

This order shall dispose of bail application under Section 438 Cr.P.C., filed by accused-applicant Darshan Singh, in complaint titled as “Sanjeev Kumar Versus Poonam and others”, under Sections 7,13(2) of Prevention of Corruption Act and Sections 420,465,467,468, 471,120-B

IPC.

2. Notice of the bail application was issued to the complainant and learned counsel for complainant appeared and contested the same. Main case pending in this Court perused.

3. I have heard Sh.Sandeep Singh Jeeda, Advocate, learned counsel for accused-applicant and Sh.V.K.Monga, Advocate, learned counsel for respondent and have carefully gone through the record of case.

4. Learned counsel for applicant-accused has argued that accused-applicant has not committed any offence and has been falsely implicated in this case. Accused-applicant has not made any forgery with the service book of Poonam, as alleged in the complaint. Accused-applicant remained posted as Block Primary Officer, Jaitu, for the period from 5.12.2005 to December 2010 and his duty is only to endorse the entries in the service book produced before him, by the concerned officials and he duly made endorsement as per the entries in the service book of accused Poonam. It is not the duty of accused-applicant to make any entry in the service book of teachers, regarding leaves availed by them, as such, he is not at fault in case the proper entries were not made by the concerned dealing Clerk, in the service book of accused Poonam. Moreover, as per record, accused-applicant never sanctioned any leave to said Poonam, after 21.12.2005. Accused Poonam has already refunded back the amount of salary, received by her in excess and has not caused any loss to the department. From the version of complainant, no offence

under any of the Sections is made out against accused-applicant. It is settled law that summoning of accused in a criminal complaint is a very serious matter and the accused cannot be summoned in criminal complaint by merely examining 2/3 witnesses and merely on the basis of suspicion, but learned Special Judge has summoned all the persons against whom complaint has been filed. Accused-applicant is a government employee and is having permanent place of residence and there is no likelihood of his absconding from the jurisdiction of this Court. He argued that case in hand being a private complaint, accused-applicant is not required for any investigation etc. and he is ready to appear before the Court and to face trial and prayed that accused-applicant be granted pre-arrest bail.

5. On the other hand, learned counsel for complainant has argued that FIR was registered against accused-applicant and others, on true facts. He argued that although the police has presented cancellation report, but now accused-applicant and others have been summoned by this Court to face trial. He argued that allegations against accused-applicant are serious in nature, so, he is not entitled for concession of pre-arrest bail and prayed that application be dismissed.

6. I have given my thoughtful consideration to the rival contentions of learned counsel for the parties.

7. Perusal of record reveals that complainant Sanjeev Kumar has filed this complaint under Sections 7,13(2) of Prevention of Corruption Act and Sections 420,465,467,468, 471,120-B IPC, against

accused Poonam and others, on the averments that accused Poonam remained posted at Government Primary School Village Guraddi, Tehsil Budhlada, District Mansa, from 11.12.2001 to 07.11.2002, as ETT Teacher. From 08.11.2002 to 11.08.2008, she remained posted, as ETT Teacher in Government Primary School, Ward No.1, Jaitu. Thereafter, she was transferred to Government Primary School Rampur Mander, District Mansa. Kashmiri Lal, father of accused No.1, is retired Teacher and is leader of BJP/RSS. Poonam, accused No.1, in connivance with her co-accused, had committed cheating at large scale, with Education Department, with regard to leaves availed by her, by getting the wrong entries made in her service book. During the period from 08.11.2002 to 12.08.2008, accused No.1 had availed 53 Medical leaves, 39 earned leave, 52 half pay leaves, 15 without pay leaves, 180 maternity leaves, but she in connivance with other accused, got entered only 33 leaves (12 earned leaves and 21 medical leaves) in her service book. No entry regarding remaining leaves availed by her, was made in her service book and she had received full salary. Thus, accused have cheated the Government and caused financial loss to the Government and also caused loss to the study of children. Apart from this, they have also committed tampering of record with regard to availing casual leaves. Accused No.1 after joining her service in December, 2001, availed maternity leave of 180 days in March, 2002, but no entry in this regard was made in her service book. When complainant sought information regarding this cheating, from RTI, then on one corner of service book of accused No.1, entry was made in

illegal manner, so as to conceal the cheating. This fact came into light, as the entry regarding leave was made at top of page, in a corner, which was duly signed by BPEO, whereas during the period when leave was availed by accused No.1, said BPEO was not posted at Budhlada-I and reference of 181 leaves was made, whereas, leave was availed for 180 days. It is clear that accused persons in connivance with each other, to escape themselves from legal action, have made such entry in the service book. Regarding above said cheating, complaint was made by one Bimla Devi, resident of Kotkapura, enquiry of which was marked to Principal, Government Senior Secondary School, Rameana, Faridkot, and in the enquiry report dated 14.1.2011, accused were found guilty. At the relevant time, accused No.3 was the Incharge of Government Primary School, Ward No.1, Jaitu and he was to forward the leaves to BPEO, but he without forwarding the same to BPEO, made enquiry in the attendance register. Accused No.4 was posted as Clerk, in BPEO Office, Jaitu, at the relevant time and he was assigned with the duty of preparing pay bills and entering the leaves in service book, but he had not entered the leaves in the service book, as per the actual leaves availed by accused No.1 and he also prepared pay bills for the period of leave, availed by accused No.1 and thus, caused financial loss to the Government. Accused No.5 was posted as BPEO, Jaitu, at the relevant time and he signed the pay bills of accused No.1, of the period during which she was on leave. Accused No.2 has not entered the maternity leave of accused No.1 in the service book, at the relevant time, rather made fake entry in the service book later

on. Complainant filed written complaint dated 7.3.2012, enquiry of which was marked to E.O. Wing, Faridkot, and during enquiry, accused were found guilty, for cheating the Government. On the basis of enquiry conducted by E.O. Wing, Faridkot, FIR No.91 dated 15.9.2012 was registered under Sections 7,13(2)(88) of Prevention of Corruption Act and Sections 420,465, 467,468, 471 IPC. After registration of FIR, anticipatory bail applications of accused No.1 and 5 were dismissed upto the Hon'ble High Court, whereas accused No.2 and 3 had not applied for bail and accused No.4 was granted anticipatory bail by the Hon'ble High Court. Due to long approach of accused persons in the politics, police has not arrested the accused persons and now he came to know that police officials in connivance with accused persons, have not taken any action against the accused persons.

8. Perusal of record further reveals that cancellation report was presented by the police in the said FIR, however, the complainant has raised objection for its acceptance and he has filed complaint on the same allegations and led the evidence. Then vide order dated 5.2.2020, accused-applicant and others, have been summoned to face trial for offence under Sections 7,13(2) of Prevention of Corruption Act and Sections 420,465, 467,468, 471,120-B IPC. Bail applications filed by co-accused Sanjeev Kumar, Parminder Kumar and Teja Singh have already been dismissed by this Court. Perusal of record further reveals that after registration of FIR, accused-applicant filed petition in the Hon'ble High Court for grant of pre-arrest bail, but same was dismissed by the Hon'ble High Court, vide

order dated 12.10.2012. So, keeping in view the facts and circumstances of the case, accused-applicant is not entitled for pre-arrest bail. Hence, bail application is accordingly dismissed. However, any observation given above, shall have no bearing on the merits of the case. Bail application file be attached with the main file.

Pronounced.
Dated:- 23.2.2021

(Harbans Singh Lekhi)
Additional Sessions Judge,
Faridkot.
(Unique Identification No.PB0113)

Present:- Sh.Sandeep Singh Jeeda, Advocate, counsel for applicant-accused.
Shri V.K.Monga, Advocate, counsel for respondent/complainant.

Complainant not served. However, Sh.V.K.Monga, Advocate, who is counsel for the complainant in the main case, has appeared and filed memo of appearance on behalf of complainant.

Main case pending in this Court for 26.2.2021 taken up and perused.

Arguments heard. Vide my separate detailed order of even date, bail application filed by the applicant-accused, has been dismissed, as detailed therein. Bail application file be attached with the main case.

Pronounced.
Dated:- 23.2.2021

(Harbans Singh Lekhi)
Additional Sessions Judge,
Faridkot.
(Unique Identification No.PB0113)

Darshan Singh Vs. Sanjeev Kumar

9