

IN THE COURT OF SH. RAJNISH GARG,
ADDITIONAL SESSIONS JUDGE, GURDASPUR.

CIS BA No. 244 of 2018
Date of decision : 12.02.2018

Sushil Kumar son of Bishan Dass, R/o Village Raipur, P.O Behrampur Tehsil
and District Gurdaspur.

.....Applicant/accused

Versus

State of Punjab

.....Respondent

FIR No. 22 dated 4.4.2015
Under Sections 420,406,409 IPC
Police Station Kalanaur.

Present : Sh S.S. Basra, Advocate counsel for applicant/accused
Sh.Vikram Kashyap, Learned Addl. PP for the State.

2. CIS BA No. 199 of 2018
Date of decision : 12.02.2018

Manjit Singh son of Mohan Singh resident of Village Dostpur, Tehsil and
District Gurdaspur.

.....Applicant/accused

Versus

State of Punjab

.....Respondent

FIR No. 22 dated 4.4.2015
Under Sections 420,406,409 IPC
Police Station Kalanaur.

Present : Sh Karanjit Singh, Advocate counsel for applicant/accused
Sh.Vikram Kashyap, Learned Addl. PP for the State

ORDER.

1. This order of mine shall dispose of two bail applications i.e.

first filed by applicant/accused Sushil Kumar under Section 439 Cr. P.C for grant of regular bail in the aforesaid FIR and second filed by applicant/accused Manjit Singh under Section 438 Cr. P.C. for grant of anticipatory bail in said FIR. Notice of the applications was given to the State and record of the case was called.

2. Brief facts necessary for disposal of these bail applications are that the present case was registered on an application moved by District Food Supplies Officer, Gurdaspur with the allegations that M/s M.S. Agro Industries, Village Dostpur is running its Sheller in village Kalanaur. During the crop year 2013-2014, 1,71,811 bags of paddy weighing 60133 Qtls were stored in the mill. Miller was to supply 40289.68 Qtls of rice against said paddy at the rate of 67% paddy. However, miller supplied only 27199 Qtls of rice with the FCI and failed to supply remaining 13089.78 Qtls of rice. As per the investigation conducted by department, Miller had caused loss of Rs. 4,19,81,953/- to the government. Earlier miller had given receipt regarding supply of 1,71,811/- bags of paddy. He was to supply 148 vehicles of rice against said paddy but he had supplied only 101 vehicles of rice. With these allegations, FIR No. 22 dated 4.4.2015 under Sections 420,406,409 IPC was registered against applicant/accused Manjit Singh, Proprietor of M/s M.S. Agro Industries Dostpur. Subsequently, said Manjit Singh moved an application for inquiry into the matter claiming that in fact, paddy was

shifted from his Mill by Inspector Sushil Kumar of Punjab Agro Industries i.e. concerned department. On the basis of said application, an inquiry into the matter was conducted by S.P. Investigation, Gurdaspur and in said inquiry, it was held by SP Investigation, Gurdaspur that in fact, accused Manjit Singh was innocent and entire offence was committed by applicant/accused Sushil Kumar. Accordingly, he recommended presentation of challan against applicant/accused Sushil Kumar, Inspector Punjab State Grain Procurement Corporation, Ltd. Thereupon, applicant/accused Sushil Kumar was arrested in this case on 07.01.2018. Thereafter, applicant/accused Sushil Kumar and his mother Rano Devi moved applications before Deputy Commissioner Gurdaspur for conducting further enquiry into the matter. Thereupon, SSP Gurdaspur constituted a Special Investigating Team under Superintendent of Police Dina Nagar. Said Investigation Team submitted its report on 03.01.2018, wherein it was stated that initially present case was registered against Manjit Singh son of Mohan Singh and he was involved in embezzlement of the amount. However, it was opined that connivance of applicant/accused Sushil Kumar also can not be ruled out. Hence, applicant/accused Sushil Kumar moved application under Section 439 Cr.P.C. for grant of regular bail, whereas applicant/accused Manjit Singh moved application under Section 438 Cr.P.C. for grant of anticipatory bail.

3. I have heard learned counsel for applicants/accused, learned Additional P.P for the State and have carefully perused the record with their able assistance.
4. Learned counsel for applicant/accused Sushil Kumar argued that applicant/accused has been been falsely implicated in the present case. Admittedly, present case was registered against Manjit Singh of M/s M.S. industries on a complaint moved by the department. Said complaint was moved by department after verification of stock stored with the miller. During the course of inquiry conducted by the department, Manjit Singh of M/s M.S. Industries submitted several affidavits wherein he admitted that he could not supply requisite rice against the paddy stored with him and undertook to supply the same. He had also given cheques towards guarantee to supply the remaining rice. Matter was also referred to the Arbitrator and Ld. Arbitrator passed award of Rs. 4,26,46,954/- against Manjit Singh of M/s M.S. Industries on 8.4.2016. On the other hand, said Manjit Singh filed a false and frivolous application against applicant/accused to save himself from criminal liability. Even said application was found to be false during the inquiries conducted by Manohar Singh Saini, DSP Vigilance Bureau, Gurdaspur, ADC, Gurdaspur and Addl. Director of the Department. Subsequently, Manjit Singh connived with higher police officials and got a false and frivolous report against applicant/accused wherein Manjit Singh was wrongly declared

innocent. Case was registered against Manjit Singh on 4.4.2015 and after about two years, applicant/accused was involved in the same case without any rhyme and reason. Moreover, applicant/accused is in custody since 07.01.2018 and no useful purpose would be served by keeping him in custody during trial which would take sufficient long time. Thereby, he prayed for grant of regular bail to applicant/accused Sushil Kumar.

5. Learned counsel for applicant/accused Manjit Singh argued that applicant/accused Manjit Singh was found innocent in the enquiry conducted by SP Investigation Gurdaspur on 26.07.2017, wherein it was specifically stated that entire embezzlement was done by accused Sushil Kumar. Subsequently, an enquiry into the matter was again conducted by Special Investigation Team, which opined that embezzlement was conducted by applicant Manjit Singh. Investigation Teams are giving contradictory reports time and again, whereas no embezzlement was committed by applicant Manjit Singh. He further submitted that applicant Manjit Singh is ready to join investigation and furnish bail bonds.

6. On the other hand, learned Additional PP for the State argued that applicants/accused are guilty of a heinous crime. During the inquiry conducted by Special Investigation Team, it was found that in fact, applicant/accused Manjit Singh committed the embezzlement and possibility of connivance of applicant/accused Sushil Kumar in

said embezzlement can not be ruled out. No recovery has been effected from either of the accused so far. During investigation, it was also found that earlier also case FIR No. 9 dated 14.2.2016 had been registered against applicant/accused Sushil Kumar with P.S. Ghuman regarding similar allegations. He had also been involved in similar other offences earlier also. Thereby, he prayed for dismissal of bail applications.

7. I have considered respective submissions made by learned counsel for the parties and have carefully gone through the file of the case with their able assistance.
8. As per the case of prosecution, applicant/accused Manjit Singh had embezzled an amount of Rs. 4,19,81,953/-. Thereby a huge loss had been caused to the State Exchequer. Subsequently, an enquiry into the matter was conducted and it was opined that embezzlement was in fact committed by applicant/accused Sushil Kumar, who shifted paddy from the Mill. In further enquiry conducted by Special Investigation Team, it was opined that embezzlement was conducted by applicant/accused Manjit Singh and possibility of connivance of accused Sushil Kumar with him can not be ruled out. Thus, now applicant/accused Manjit Singh of M/s M.S. Industries and applicant/accused Inspector Sushil Kumar are levelling allegations against each other regarding said embezzlement. Even otherwise paddy supplied by the department is kept in joint custody of the

department as well as the miller. In view of these circumstances, possibility can not be ruled out that paddy/resultant rice was embezzled by both the applicants/accused in connivance with each other and now both of them are levelling allegations against each other. It has also come in inquiry that earlier also a similar case was registered against applicant/accused Sushil Kumar. A huge loss has been caused to the department by the accused. Entire recovery is yet to be effected from the applicants/accused. In case, applicant/accused Manjit Singh is granted anticipatory bail, it would not be possible to determine as to whether paddy was embezzled by above said Manjit Singh or applicant/accused Sushil Kumar. Mere length of custody is also no ground for grant of bail in a case of such a huge embezzlement. In view of these circumstances custodial interrogation of applicant/accused Manjit Singh is necessary in this case to further investigate into the matter and he is not entitled to extra ordinary relief of anticipatory bail. Even, applicant/accused Sushil Kumar does not deserve regular bail at this stage as investigation is still going on and recovery is yet to be effected. In view of these circumstances, without commenting upon other merits of the case, both the bail applications fail and are hereby dismissed. However, the observations made above will have no bearing on the merits of case. Original order be placed in bail application titled as "Sushil Kumar Vs State" bearing number 33 of 29.01.2018 and copy of the same be placed in

bail application titled as “Manjit Singh Vs State” bearing number 29
of 23.01.2018. Police record be returned and bail file be consigned to
record room.

Pronounced
Dated:-12.02.2018

Rohit Tandon
Stenographer-III

(Rajnish Garg)
Additional Sessions Judge,
Gurdaspur.
UID No. PB 0088

Present : Sh S.S. Basra, Advocate counsel for applicant/accused
Sh.Vikram Kashyap, Learned Addl. PP for the State.

Record received. Arguments heard. Vide my separate detailed order announced today, the present bail application has been dismissed. Copy of the order be also placed in bail application no. 29 of 23.01.2018 titled as 'Manjit Singh Vs State'. Record of the case be returned. File of bail application be consigned to the Record Room.

Pronounced
Dated:-12.02.2018

(Rajnish Garg)
Additional Sessions Judge,
Gurdaspur.

Rohit Tandon
Stenographer-III

UID No. PB 0088

Present : Sh Karanjit Singh, Advocate counsel for applicant/accused
Sh. Vikram Kashyap, Learned Addl. PP for the State

Record received. Arguments heard. Vide my separate detailed order passed in bail application no. 33 of 29.01.2018 titled as "Sushil Kumar Vs State, the present bail application has been dismissed. Copy of said order be also placed in this bail application. Record be returned. File of bail application be consigned to the Record Room.

Pronounced
Dated:-12.02.2018

(Rajnish Garg)
Additional Sessions Judge,
Gurdaspur.

Rohit Tandon
Stenographer-III

UID No. PB 0088