

(2001) 03 P&H CK 0131

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 43050-M of 2000

Sri Kant

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 02-03-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438

Penal Code, 1860 (IPC) — Section 120

Prevention of Corruption Act, 1988 — Section 13(1)

Citation : (2001) 2 RCR(Criminal) 746

Hon'ble Judges : Amar Dutt, J

Bench : Single Bench

Advocate : Mrs. Kiran Bala Jain, for the Appellant; Mr. Rajesh Bhardwaj, Asstt. Advocate General, for the Respondent

Judgement

Amar Dutt, J.—Sri Kant and two others have failed the present petition u/s 438 Cr.P.C. for the grant of anticipatory bail in case FIR No. 27 dated 28.10.2000 which was registered against them under Sections 409, 468, 471, 477A and u/s 120B IPC and u/s 13(I)(d) of the Prevention of Corruption Act, 1988 in Police Station State Vigilance Bureau, Ambala.

2. The case pertains to the irregularities committed by the officials of the Department of Printing and Stationery Haryana, working in the Govt. Printing Press, Haryana) Panchkula relating to mis-appropriation and misutilisation of stationery handed over to them during the course of their duties for the purpose of printing. According to the prosecution, the petitioners and their co-accused are guilty of having taken benefit of 3-5 per cent wastage over and above the wastage permitted, and misappropriated the stationery for their gain. It is alleged that as per the inquiry dated 17.5.1994 against official/em-ployees Printing and Stationery Department, Haryana, a letter bearing No. 57/94-1, Vigilance dated 11.5.1994 was received from the Chief Secretery Haryana, and stationery worth crores of rupees was found misappropriated.

3. Undisputably, bail is being sought on the ground that the shortages in stocks mentioned in the inquiry report pertain to the period 1982 to 1988, which is prior to the period when the petitioners joined services. It was also submitted that actually the petitioners have been responsible for deducting the loss due to wastage but the saving brought about by them during the period that they have been working, has been adjusted for the benefit of others employed prior to them and therefore, they cannot be held liable for the shortages which have been pinpointed in the report submitted to the Chief Secretary in the year 1994.

4. On behalf of the State it is not submitted that the petitioners have not been joining investigation in consequence of the orders passed by this court on 21.11.2000 and have been misusing the concession of anticipatory bail given to them. The stand of the State apparently seems to be that though the FIR has been recorded on the basis of an inquiry conducted into the functioning of the Department of Printing and Stationery, Haryana in the year 1994 yet the same would not preclude the Investigating Agency from inquiring into the functioning of the Department in the subsequent years and therefore, the custody of the petitioners for interrogating them regarding the manner in which stationery was being misappropriated and the persons responsible therefore would be essential.

5. I have given my thoughtful consideration to the rival contentions of the learned Counsel for the parties.

6. In the present case the FIR has been registered by the State Vigilance Bureau Department 6 years after the report of the Inquiry was forwarded to it by the Chief Secretary, Haryana. The petitioners were admittedly not in service during the period to which the inquiry pertains having joined the service only after 13.10.1988.

On 31.1.2001 the Investigating Officer when this case was partly heard, had indicated that he had not been able to look into the role played by Ishwar Singh Chail, Surinder Lal Puri, B.K. Saini, Bairewal Manager, Hari Om Bansal and S.P. Kohli who were also named in the FIR as the persons responsible for the crime. The preliminary inquiry in such a case would necessarily be based upon the examination of the records which the Investigating Agency must have already taken into its custody and only after it has conducted the preliminary investigation it would be possible for it to indicate as to whether the lapses indicated in the report have been continued by the petitioners and their co-accused.

7. In the circumstances, taking into consideration the magnitude of the loss that is being suffered by the State though it would not be appropriate for this court to stand in the way of custodial interrogation of the petitioners being carried out but the question is as to whether the same is necessary or not should, in my opinion, be left open to be decided by the trial court when the petitioners apply for a regular bail before it on or before 14.3.2001. By that time it is hoped that the Investigating Officer would have found time enough to look into the matter and

place before that court the material for its scrutiny with regard to the question as to whether the custody of the petitioners would at all be necessary in the circumstances brought out before it. When the petitioners would move such an application the same will be disposed of within 7 days from its filing. Till the disposal of that application the orders regarding interim bail of the petitioners shall continue to be in force. In the event of the same being decided against them they will surrender before the said court on the date of the decision of the application.

With the above directions, this petition is disposed of.

8. Order accordingly.