IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-15011 of 2015
Date of Decision: 20.07.2015

Rupinder Singh Chatha ....Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. L.M. Gulati, Advocate
for the petitioner.

Mr. Ashish Sanghi, DAG, Punjab.

Mr. Naveen Chopra, Advocate
for the complainant.

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SNEH PRASHAR, J. (Oral)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure (Cr.P.C.) for grant of concession of anticipatory bail to the petitioner in case First Information Report No.5 dated 08.04.2015 under Sections 406, 420,465, 467, 468, 471 and 120-B of the Indian Penal Code (for short 'IPC) registered at Police Station N.R.I., Amritsar City, District Amritsar.

2. In the complaint lodged by Narinder Khanna, on the basis of which the First Information Report, particulars of which have been mentioned above, was registered, he had mentioned that he was an NRI and was a British citizen. Being interested in investing in real estate in India, he had transferred 3 lac pounds (GBP) in the account of Ashwani Kumar Uppal who was dealing in sale and purchase of property and

had also given Rs.75 lacs to D.S. Bawa and Rs.25 lacs to Daljit Singh for buying property at DLF Galiara Jalandhar project. Out of Rs. 2.25 crore, given to Ashwani Kumar Uppal, he had paid Rs. 6,68, 626/- to DLF Jalandhar and had returned Rs. 25 lacs, but the balance amount of Rs.1,93,31,374/- which was to be paid to DLF Galiara Jalandhar was neither given to the said company nor was returned to him. When he obtained statements of his bank accounts with PNB Basant Avenue and PNB Lawrence Road, Amritsar, he was surprised to find that the entire amount lying in his account No.1339000500011982 had been withdrawn and the account had since been closed. He also learnt that the entries showing withdrawals were made in an unauthorized manner without his consent and without information to him.

Cheque No.25719 worth Rs. 2,98,942/- that was to be deposited in the account of M/s Omaxe Novelty Mall was got encashed on 23.07.2007 but the amount was not transferred in the account of the company. On 31.03.2007 an amount of Rs. 16,71,188.54/- was debited from his account and same exercise was repeated a week later i.e. on 07.04.2007. Thereafter on 22.02.2007, the complainant stated that it also came to his knowledge that two cheques of Rs.1 crore each and one cheque worth Rs. 79,84,096 had been got encashed on 26.02.2007 from Model Town Branch, New Delhi by debiting to his account.

3. During investigation statement of witnesses were recorded and it was found that the cheques given by the complainant to Ashwani Kumar Uppal for payment to the Omaxe Novelty Mall, Amritsar

company had been got encashed by him in connivance with the bank officials and the amount had been received in cash. The amount of the cheques got encashed from PNB Model Town Branch, New Delhi had also been obtained in cash illegally.

Apprehending his arrest, the petitioner who was incharge of PNB Basant Avenue Branch, Amritsar at the relevant time filed an application for anticipatory bail before learned Additional Sessions Judge, which was dismissed vide order dated 28.04.2015.

4. Heard the submissions made by Mr. L.M Gulati, Advocate representing the petitioner and Mr. Ashish Sanghi, DAG, Punjab representing State; Mr. Naveen Chopra, Advocate representing the complainant.

5. Learned counsel for the petitioners argued with vehemence that in the First Information Report no allegation of any kind was levelled by the complainant against the petitioner. He was not involved in any transaction between the complainant and Ashwani Kumar Uppal who allegedly defrauded the complainant. He is being arrayed as an accused only for the reason that during investigation it was found that he did not clear cheque No.226719 dated 21.03.2007 for an amount of Rs.20,98,942.56/- as per rules and regulations of the Bank. It is alleged that instead of making payment to Omaxe Novelty Mall, the amount of the cheque was transferred in the account of Ashwani Kumar Uppal and Naresh Kumar Uppal. Learned counsel contended that it was a bearer cheque and on encashment the amount had to be paid to the person who

presented the cheque. Otherwise also, all the transactions were being confirmed by the complainant through confirmation letter or through email. One such authorization letter given by the complainant dated 15.01.2009 had been annexed with the instant petition. Out of 70 entries only 8 were questioned by the complainant and all necessary details pertaining to the said entries were provided by the PNB Basant Avenue Branch. Submitting that the petitioner has since retired and has been falsely implicated, learned counsel sought his release on anticipatory bail.

6. Learned counsel representing the complainant placed on record the detailed investigation report prepared by Chief Officer Police Station NRI, SAS Nagar. Learned State counsel submitted that there may not be direct allegation against the petitioner in the First Information Report but during investigation it was found that Ashwani Kumar Uppal used to manage transfer of payments from one account to another through the petitioner who at the relevant time was working as Chief Manager PNB Basant Avenue Branch Amritsar. It was the petitioner who allowed cash payment of cheque of Rs. 20,98,942.56 to Ashwani Kumar Uppal whereas the cheque was in the name of Omxe Novelty Mall Amritsar.. It had also come in investigation that Chief Manager PNB Branch Model Town, New Delhi had contacted the petitioner at the time of encashment of bearer bank cheque No.026715 dated 21.02.2007 and the petitioner had verified the same to the correct and had asked the payment to be made to Ashwani Kumar Uppal.

Accordingly on the asking of Ashwani Kumar Uppal the payment in cash was given to Lokesh Sanghi his manager.

Learned State counsel further submitted that no consent letter had ever been issued by the complainant. Had the consent letter, filed by the petitioner as Annexure P-4, been genuine and in existence, it should have been in the record of the Bank and should have been handed over by the Bank to the police during investigation, but the fact is that it was not in bank custody and had been produced by the petitioner. Learned counsel also submitted that the cheques used for withdrawals from the account of the complainant were issued from a cheque book which had not been got issued by the complainant. There was nothing in the register of the bank, to show the issuance of the cheque book, which shows that the cheque book pertaining to account of the complainant had been illegally got issued by Ashwani Kumar in connivance with the petitioner. For unveiling the nexus between the petitioner and the co-accused and for recovery of the forged documents custodial interrogation of the petitioner is necessary.

7. The allegations against the petitioner prima-facie indicate his link with the transactions of withdrawal of huge amounts disputed by the complainant in his account. The nexus between the petitioner and the other accused is certainly required to be probed. Recovery of the documents alleged to be forged is also to be made. Thus, considering all facts and circumstances and without going into the merits of the case, in my considered opinion no ground for grant of

anticipatory bail to the petitioner is made out and the present petition is hereby dismissed.

(SNEH PRASHAR)
JUDGE

July 20, 2015
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