IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRM-M-31025-2015
Date of decision: 16.9.2015

Raj Kumar Kakkar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: **HON'BLE MR. JUSTICE RAJAN GUPTA**

Present: Mr. Bikramjit Aroura, Advocate for the petitioner.

Rajan Gupta, J. (oral)

This is a petition under Section 438 Cr.P.C. seeking pre-arrest bail in a case registered against the petitioner under Sections 420, 467, 468, 471, 120-B IPC at Police Station Civil Lines, Amritsar City, vide FIR No.110 dated 6.4.2015.

Notice of motion.

On the asking of the court, Mr. Shilesh Gupta, Addl. Advocate General, Punjab accepts notice.

Learned counsel for the petitioner contends that dispute is purely of civil in nature. There is an arbitration clause in the agreement. In case of any dispute the issue could have been referred to the Arbitrator. Besides, petitioner is only a valuer and handed over the gold alongwith the requisite certificate to the agent of the bank. Thus, no role is attributed to the petitioner. He, thus, deserves concession of anticipatory bail.

Prayer has been opposed by the State counsel. According to him, the company noticed 25 defaults in repayment of gold loans. At that time, the gold was handed over to a government approved valuer who found that in all the 25 cases, the purity of the gold was only 10%.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

FIR was lodged by the company namely, H.D.B. Financial Services alleging that its valuer i.e. Kishore Jewelers and Sons had connived with customers of the company and supplied impure gold. On the basis of same, loan was sanctioned by the company. Various customers availed this facility, but defaulted in repayment. As the company was entitled to sell/auction the gold ornaments, it sent the same for valuation by government approved valuer. At that time it was found that gold ornaments pledged with the company had only 10% purity. Petitioner is proprietor of Kishore Jewelers.

Keeping in view the facts and circumstances of the case, I am of the considered opinion that petitioner is not entitled to concession of pre-arrest bail. Dismissed.

It is, however, not clear why the company engaged a private valuer in the first instance. It is evident that the company was entitled to seek opinion of a government approved valuer even at the stage of sanction of loans. Admittedly, this was not done. Investigating agency shall be at liberty to investigate the role of the company and its officials in these type of transactions.

(RAJAN GUPTA)
JUDGE

16.9.2015
'Rajpal'