

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.M-31181 of 2014 (O&M)
Date of decision : August 04, 2015

Yatish Kumar Goel

...Petitioner...

versus

State of Haryana

...Respondent...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Sudhir Mittal, Advocate,
for the petitioner.

Mr. D.R. Singla, DAG, Haryana.

Mr. Ashwani Bakshi, Advocate,
for the complainant.

JASPAL SINGH, J.

Instant petition has been preferred under Section 438 of the Code of Criminal Procedure by Yatish Kumar Goel, seeking pre-arrest bail, feeling apprehension of his arrest, in case FIR No. 244, dated 19.06.2014, under Sections 419, 420, 467, 468, 471 and 384 IPC, at Police Station Udyog Vihar, Gurgaon.

2. In nutshell, case of prosecution as unfolded by Lalit Gupta, Managing Director of Spectra Televentures Pvt. Ltd. is that an envelope was received containing notice on January 27, 2014 through courier service under Section 160 Cr.P.C. purported to have been issued on January 24, 2014 under the signatures of one Mr. C.K. Sharma, SI Crime Branch, Police Head Quarters, Delhi

requiring him to appear before him on February 03, 2014 at 10:00 a.m. The said notice further revealed that presence of complainant-Lalit Gupta, his wife Bindu Gupta and Vineet Jain, employee of Spectra Company was required in connection with a criminal complaint lodged under Sections 419, 420, 477-A and 120-B IPC in Urla Police Station, Raipur with regard to a complaint lodged by one Dina Thakur alleging that complainant-Lalit Gupta has duped him to the tune of ₹38 lacs. Further that he has created computerized bills and records. Two other envelopes containing same text of notice in the name of his wife Bindu Gupta and Vineet Jain were also received simultaneously through courier services of New Hari Om Courier Civil Side, Tis Hazari Courts, Delhi. These envelopes also contain the courier addresses, on which, these were received for sending to them. Similarly, three other envelopes were received on February 03, 2014, which were sent through D.T.D.C.D.L.F. Branch LE 017 DLF Master PR containing same text notices under Section 160 Cr.P.C. according to which, addressee were required to appear before Mr. C.K. Sharma on February 04, 2014 at 10:00 a.m. However, despite best efforts made by complainant-Lalit Gupta, he could not locate SI, C. K. Sharma as well as alleged complainant-Dina Thakur. Earlier, legal work of complainant's firm was looked after by Mr. Yatish Kumar Goel, Advocate. In the month of January 2014, Mr. Y.K. Goel had made inquiry from the official of complainant's firm about the said person namely Dina Thakur. So, he suspected that some mysterious person as well as said Y.K. Goel are trying to

harass them to commit extortion as well as to tarnish his image as well as of his firm. During investigation of the case, it came to light that in the Crime Branch Head Quarter Delhi, there was no official posted in the name of C.K. Sharma. Rather, on tracing the location, mobile phone of petitioner matched with the location from where courier was sent to complainant-Lalit Gupta.

3. Contention of learned counsel for petitioner is that petitioner is a reputed practicing lawyer and is a member of various bar associations, who has earlier been representing Spectra Televenture i.e. complainant's firm in about 13 court cases but when it was revealed that Lalit Gupta, Managing Director of the Company is using forged and manipulated documents with a view to obtain favourable orders from the courts, he objected to it and declined to represent him before the Courts. As a result thereof, Lalit Gupta and Veneet Jain started defaming him, for which, he served legal notice dated April 04, 2014. When complainant did not desist from sabotaging his reputation, he was constrained to lodge a criminal complaint under Sections 418, 500 and 120-B IPC on April 14, 2014. Moreover, present FIR has been lodged by complainant just to cover up his own wrong doings. Earlier also petitioner has applied for pre-arrest bail before Sessions Court, Gurgaon and vide order dated August 13, 2014, interim pre-arrest bail was granted to him with a direction to join investigation on or before August 20, 2014 and hearing was fixed for September 01, 2014. In compliance of said order, petitioner joined the investigation and got recorded his

statement on August 18, 2014. Subsequent thereto, he also appeared before the Id. Jurisdictional Magistrate on August 26, 2014 where he gave his specimen signatures and hand-writing. However, on September 01, 2014, petitioner could not attend the hearing as he had gone to see his ailing relative at Jaipur and in his absence, investigating agency misrepresented the facts and stated that petitioner had not joined investigation on August 20, 2014 and his application was dismissed. Though, he had applied for restoration of his application for bail before Sessions Court but since there was no such provision in criminal law, that application was withdrawn. Thereafter, he moved the instant petition. Since, nothing is to be recovered from petitioner, his custodial interrogation is not necessary. He has been cooperating the investigating agency and also undertakes to fully cooperate with it.

4. These arguments have been controverted by learned State counsel as well as learned counsel representing complainant submitting that it is an admitted fact that petitioner was earlier dealing with cases of complainant's firm and at that time, he had inquired from the employees of the firm about the aforesaid Dina Thakur and he was none else but the petitioner, who issued notice requiring the complainant as well as his wife to appear before Mr. C.K. Sharma, SI. Though, petitioner has joined investigation in this case on August 18, 2014 as per the orders of Sessions' Court but instead of properly answering the questions during investigation, he gave vague replies. Not only this, he was called before Illaqa Magistrate on

August 26, 2014 for giving his specimen signatures and hand-writing but instead of giving his specimen signatures as required, he gave signatures in block letters, which was not required by the investigating agency for the purpose of investigation. Subsequent thereto, he was also required to appear in the Court of Id. Magistrate on August 28, 2014 for giving his specimen signatures but he avoided his appearance in the Court on the said date. Since, petitioner is misrepresenting the facts and is not fully cooperating the investigating agency, he does not deserve the concession of bail.

5. This Court has given a thoughtful consideration to the submissions made by learned counsel for the parties and has gone through the records available.

6. It is an undisputed fact that petitioner was granted interim bail by Id. Sessions Judge, Gurgaon vide order dated August 13, 2014 whereby he was directed to appear before the investigating officer positively on or before August 20, 2014 at 10:00 a.m. In compliance thereof, he joined the investigation on August 18, 2014. Subsequently, on September 25, 2014, specimen signatures were also given by the petitioner, which was sent to Forensic Science Laboratory, Haryana Madhuban Karnal and vide report dated February 10, 2015, it was opined that “***technically, the specimen writings (signatures) marked SI to S4 are not inter-se comparable with questioned signatures marked Q1 to Q5***”. Thus, those signatures are insufficient for comparison and purpose of investigation could not be achieved. Petitioner is on interim bail since

September 17, 2014 and has joined the investigation.

7. Taking into consideration the aforesaid discussion but without expressing any opinion on the merits of the case, petition is allowed and interim order dated September 17, 2014, is made absolute but subject to the conditions as envisaged under Section 438 (2) Cr.P.C. Petitioner is further directed to appear before the concerned Jurisdictional Magistrate on August 13, 2015 or any other date convenient to the Court for giving specimen signatures and hand-writing running into two pages for comparison thereof with the questioned signatures and on failure to comply with it, prosecution shall be at liberty to move this Court for cancellation of bail.

August 04, 2015

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**(JASPAL SINGH)
JUDGE**