IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 291

Criminal Miscellaneous No.M-35082 of 2016 (O & M)
Date of Decision: *December 19, 2016*

Aditya Bansal

..... PETITIONER

VERSUS

State of Haryana

..... RESPONDENT

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL Singh**

. . .

PRESENT: - Mr. R.S. Cheema, Senior Advocate, with Mr. R.K. Trikha, Advocate and Mr. Tarun Aggarwal, Advocate, for the petitioner.

Ms. Neelam Kashyap, Deputy Advocate General, Haryana, assisted by Mr. R.S. Rai, Senior Advocate, with Mr. D.S. Brar, Advocate, for the complainant.

. . .

Jaspal Singh, J

1. This is a petition under Section 439 Cr.P.C. for grant of bail to petitioner in case FIR No.97 dated March 23, 2016, under Sections 406, 420, 467, 468, 471, 120-B IPC, registered at Police Station, Sushant Lok, Gurgaon.

2. The brief facts giving rise to the instant petition are that Rajiv Gupta, Vice President of M/s Kapsons Group Pearl Honda (for short, 'Company'); Subham Goel, working in Accounts Department of the aforesaid Company; and Ramesh Kumar (Runner) left the Company in the month of September 2015. The aforesaid persons alongwith other employees

of the company used to maintain all the financial, banking as well as accounting affairs of the Company. On April 13, 2015, an amount of ₹ 1,50,000/- was credited in the Company's Account No.50200003645720 on account of refund against booking of Duster vehicle (booked on September 10, 2013) by way of cheque No.010256 dated March 03, 2015 drawn at HDFC Bank, First India Place, Gurgaon in favour of Agmatel India Private Limited. It revealed from the bank statement that no cheque was ever presented and the same was forged. It was created as a backup document to substantiate the aforesaid refund. Mr. Gaurav Aggarwal, Director the Company told them that Rajiv Gupta alongwith his wife Shikha Gupta and dauther Riya Gupta had visited them and purchased mobiles. Mrs. Shikha Gupta signed the invoice. Mr. Rajiv Gupta and his family are the beneficiary of the entire amount of ₹ 1,50,000/-. Rajiv Gupta alongwith other persons grabbed the amount of Company by fabricating documents. The fabricated receipts did not tally as there were several receipts showing particular car having been registered twice. The accused clandestinely got the cheque signed and money withdrawn by showing that money was being utilized for registration of cars. In this manner, more than thousand cars were got registered at various RTOs in Delhi NCR region. They caused loss to the Company by forging and fabricating receipts & cash books. After investigation, it was revealed that more than 15 crore were misappropriated by them. Certain blank papers and seal were handed over to Mr. Rajiv Gupta to represent the Company before the Government authorities/ Departments. In the backdrop of aforesaid facts, company lodged the instant FIR.

3. During investigation, the Directors of Agmatel Company clarified that they had not got registered any car through Sprint Cars Private Limited or with Kapsons Engineers Private Limited. They neither booked

any car nor issued any cheque in favour of these companies. Two mobiles were purchased by Rajiv Gupta & Family by way of cheque, shown to be issued by Sprint Cars Private Limited, and ₹ 50,000/- were received in cash as refund, though no cheque was given in these companies. The bill with regard to aforesaid transaction bears the signatures of Mrs. Shikha Gupta wife of Rajiv Gupta. The record was taken into possession by the police.

4. On the basis of supplementary statement of complainant, offence under Sections 467, 468, 471, 120-B IPC was added. Statement of witnesses was recorded. Several persons were arrested who suffered disclosure statements and got recovered certain amounts. Two articles (Samsung mobile and Bluetooth device) were purchased by Rajiv Gupta, his wife Shikha Gupta and daughter Riya Gupta from Agmatel India Private Limited. The bill of the mobile was got prepared in the company of complainant – A.K. Motors. Moreover, Shikha Gupta had deposited ₹ 6,50,000/- in the account of Vishnu Traders by withdrawing the same from her account on July 18, 2014. It has come on record that petitioner – Aditya bansal is brother-in-law of Rajiv Gupta. These persons alongwith others have misappropriated the money causing wrongful loss to the Company by making false entries. They fabricated the account/vouchers (cash journal and bank) book and bank book of the Company, and transferred the amount in their personal accounts as well as in the accounts of their relatives. In this way, they made fraudulent cash withdrawals from the bank of Company and made fictitious payments to various vendors without any valid bill(s)/receipt(s).

5. During further investigation, petitioner – Aditya Bansal, in his disclosure statement, stated that he got cash ₹ 2,90,000/- from the account of Vishnu Traders vide cheque No.011805 on August 19, 2015. The

account of PB Associates was got opened in the name of Manoj Yadav and as per cheque No.011885 dated August 19, 2015, ₹ 2,59,246/- and ₹ 2,41,851/- bearing cheque No.011777 dated August 10, 2015 were got encashed from the accounts of Shri Balaji Traders. ₹3,00,000/- fell to his share out of ₹ 7,91,293/- which he kept in Agra (U.P.) with his known friend. He assured to get that amount recovered and to get his brother-in-law Rajiv Gupta arrested. After arrest of petitioner, police remand was obtained and he falsified his earlier disclosure statement and stated that Rajiv Gupta was an employee of complainant's company and by shown fake advance book of the cars, he succeeded in making fake refunds and withdrew ₹ 10 lac and ₹ 12 lac which were concealed in Shimla and Gwalior with his acquaintance. Petitioner has been making disclosure statement(s) time and again with regard to forgery and withdrawal of amounts from the accounts of Company in collusion with his brother-in-law Rajiv Gupta, and keeping these amounts with his relatives or known persons. He got effected an amount of ₹ 2 lac and cheque book from Rampur, Chhattisgarh and Delhi. He also got recovered ₹ 5 lac as per his disclosure statement. Co-accused Puneet Aggarwal got effected recovery of ₹ 10,000/- which were taken into possession by the police.

6. Learned counsel for the petitioner has submitted that petitioner has been falsely implicated in the instant case. Petitioner has no concern with the Company. Petitioner made transactions by only going to bank, by depositing the amount in the account of P.S. Trading Private Limited vide cheque No.010340 dated February 15, 2015 for ₹ 4,43,687/-; cheque No.010243 dated February 24, 2015 for ₹ 1,50,000/-; and in the account of M/s Vardhman Enterprise vide cheque No.009571 dated February 16, 2015 for ₹ 3,50,000/- and cheque No.011026 dated April 28,

2015 for ₹ 3,12,000/-. The total amount of aforesaid cheques comes to ₹ 12,55,687/-, out of which, petitioner got the same of ₹ 6 lac and ₹ 5 lac have already been recovered by the Investigating Agency. In addition, petitioner allegedly deposited cheque No.011805 dated August 18, 2015 for ₹ 2,90,000/- in the account of Vishnu Traders Linkers; cheque No.011885 dated August 18, 2015 for ₹ 2,59,246/- in the account of P.B. Associates; and cheque No.011777 dated August 10, 2015 for ₹ 2,41,851/- in the account of Shri Balaji Sales. The total value of these cheques comes to ₹ 7,91,297/-, out of which, petitioner got his share of ₹ 3 lac, which the police has already recovered from Agra (U.P.). Now, nothing remains to be recovered from the petitioner.

7. Learned counsel for the petitioner has further contended that petitioner was arrested in this case on June 02, 2016. After completion of investigation, final report under Section 173 Cr.P.C. has already been filed. As per the allegations against the petitioner, he got recovered ₹ 2 lac, ₹ 5 lac and ₹ 3 lac , by suffering disclosure statement(s), which he got from the main accused Rajiv Gupta as his share with regard to his depositing cheques and withdrawing the amount, which he used to hand over to Rajiv Gupta. Rajiv Gupta, who can be said to be the main accused, has already been granted the concession of bail vide order dated September 01, 2016 passed by the Judicial Magistrate 1st Class, Gurgaon and role of the petitioner is even less than that of Rajiv Gupta. Thus, petitioner also deserves the concession of bail.

8. Per contra, learned counsel for the State as well as complainant vehemently opposed the petition by submitting that there are serious allegations against the petitioner. Petitioner is actively involved in forging, fabrication of documents and misappropriating of amount which

runs into crores. He has transferred the amount belonging to the Company in different accounts being run by the persons who are either his close relatives or fake accounts. Moreover, in case the petitioner is released on bail, he is likely to abscond as well as to win-over the witnesses and tamper with the evidence.

9. This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and gone through the record available.

10. Petitioner was arrested on June 02, 2016 on the basis of disclosure statement suffered by co-accused Puneet Aggawal. It revealed that petitioner opened the account (No.257720101748) of Puneet Aggarwal and desposited ₹ 4,47,686/- & ₹ 1,50,000/- by way of cheques, in the name of P.S. Trading Private Limited in Canara Bank, Delhi. Further, another account in the name of Vardhman Trading Company which was already existing in the name of Ankit Bansal, was being run by the petitioner and an amount of ₹ 4,47,686/-, ₹ 1,50,000/- and ₹ 3,50,000/- was credited in the account of Vardhman Trading Company from the account of P.S. Trading Company in which petitioner has deposited the amount by taking cheque from Rajiv Gupta, who issued the same in lieu of refund of complainant – Company. Petitioner took the accounts of his known persons on rent in the name of Vishnu Traders Limited, P.B. Associates, Shri Balaji, and cheques of the amount of ₹ 2,90,000/-, ₹ 2,59,246/- and ₹ 2,41,851/- were credited by accused Rajiv Gupta through petitioner. Further, petitioner also opened fake accounts in the name of Singhal Overseas, Global International and Amit Singhal. Though, Amit Singhal was the account holder of all the above three accounts, however, photograph of petitioner exists on the account opening

form instead of Amit Singhal. Petitioner also made transactions in these accounts.

11. Final report against petitioner and his co-accused has already been submitted in the court of jurisdictional Magistrate at Gurgaon on August 28, 2016 and now the case is pending in the court for appearance of accused persons.

12. The investigating carried out by the Special Investigating Team reveals that after November 19, 2016, many entries have been found in Account No.200999504071 pertaining to petitioner in the name of Bansal Trading Company from the account of Vardhman Trading Company. Moreover, a huge loss to the tune of ₹ 14,50,98,301/- has been caused to the Company of complainant.

13. There are serious and specific allegations against the petitioner. Further, case of the petitioner cannot be equated with that of co-accused Rajiv Gupta, inasmuch as, a petition under Section 439(2) Cr.P.C. for cancellation of bail granted to Rajiv Gupta by the learned Magistrate is already pending. As such, on the doctrine of parity, petitioner cannot claim the concession of bail. Moreover, connivance and collusion of the petitioner with Rajiv Gupta is also *prima facie* established as he is none-else but a close relative (brother-in-law) of Rajiv Gupta.

14. In the light of what has been discussed above, this Court does not find any merit in the instant petition and the same is dismissed.

(Jaspal Singh)
Judge

December 19, 2016
avin

Whether Speaking/ Reasoned: Yes/ No
Whether Reportable: Yes/ No