

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-35019 of 2015 (O&M)
Date of Decision: 11.02.2016

Debashish Kar

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Gulzar Mohammad, Advocate for the petitioner.

Mr. A.S. Kler, D.A.G., Punjab.

Mr. Hemen Aggarwal, Advocate for the complainant.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the present petition filed under Section 438 Cr.P.C praying for the grant of anticipatory bail to the petitioner in case F.I.R. No.118 dated 4.9.2015 under sections 420, 408, 381 I.P.C, registered at Police Station, Sadar Phagwara, District Kapurthala.

Learned counsel for the parties have been heard.

F.I.R came to be registered on the complaint made by a General Manager, Haveli Heritage, Jalandhar. Allegations against the present petitioner are with regard to cheating and theft while working as Manager with the same Haveli Group. Complainant's version is that the petitioner was working with the Haveli Group since the year 2005 and in addition to his duties was even making bookings of a Banquet Hall which had been erected by the Haveli Group itself. Allegations are that the advance payments made by the parties who were booking the Banquet Hall for marriage functions etc. were received by the petitioner/accused and out of such advance payments, the dues of various suppliers were settled. As per complainant, the petitioner in the year 2012 left the services of his own

accord and subsequently it surfaced that the dues of many suppliers had not been settled and as such, the Haveli Group has been cheated. Further allegation is that items worth Rs.10/12 lacs are also missing from the stores and which have been allegedly stolen by the petitioner.

On 28.11.2015, petitioner was directed to join investigation and interim protection as regards arrest was granted.

Learned State counsel upon instructions from ASI Sabinder Singh would submit that even though, the petitioner has joined investigation but he is not cooperating in the matter inasmuch as no recovery has been effected and even the stolen articles have not been returned.

Having heard learned counsel for the parties at length, this Court is of the considered view that the petitioner is entitled to the concession of pre-arrest bail.

Placed on record at Annexure P-2 is the resignation letter of the petitioner which is dated 5.6.2012. This very letter even bears the seal and signatures of an authorized signatory on behalf of Haveli Heritage. The contents of Annexure P-2 are not even disputed by counsel for the complainant. Clearly, the resignation having been submitted was accepted by the complainant party on 5.6.2012 itself. Curiously, the allegations pertaining to cheating and articles from the stores having been stolen have surfaced after a period of 3 years i.e. in the year 2015. Even the contents of the F.I.R do not reveal and bring forth the period for which suppliers had made supplies to Haveli Heritage and for which their dues had allegedly not been settled. The complaint on the basis of which the F.I.R was registered does not furnish any details of the stolen articles. It goes without saying that at the stage of an employee of the level of Manager submitting

a resignation and the same being accepted there would be an exercise of handing over charge and of verification of inventory.

Under such circumstances and in view of the fact that the petitioner has since joined investigation and merely on the basis that the alleged stolen articles have not been returned, cannot be made a basis to deny to the petitioner the concession of anticipatory bail. The allegations raised on behalf of the complainant firm would require leading of evidence and which would be a matter to be considered during the course of trial.

Accordingly, the present petition is allowed. The order dated 28.11.2015, passed by this Court, is made absolute.

It is, however, made clear that the observations contained in this order are confined only with regard to considering the prayer of the petitioner for grant of pre-arrest bail and would have no bearing on the merits of the case.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

11.02.2016
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