IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM No.M-44289 of 2015 (O&M)
Date of Decision: 15.01.2016

Mohit Jindal ... Petitioner

Versus

State of Punjab ... Respondent

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

Present:- Mr. Manish Dadwal, Advocate for the petitioner.
Mr. K.D. Sachdeva, Additional Advocate General, Punjab.
Mr. Saurav Khurana, Advocate for the complainant.
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TEJINDER SINGH DHINDSA.J.

Petitioner seeks the concession of anticipatory bail in case FIR No.130 dated 08.11.2015, under Sections 420/465/468/471 IPC, registered at Police Station City Jalalabad, District Fazilka.

The present order would be in continuation of the order dated 28.12.2015 passed by this Court and in the following terms:

> *"Notice of motion.*
>
> *In this petition, the petitioner has sought for granting anticipatory bail in the event of arrest of accused in FIR No. 130 dated 08.11.2015 under Sections 420/465/468/471 of IPC registered at Police Station City Jalalabad, District Fazilka.*
>
> *Petitioner and complainant are into iron, steel and ancillary items business. Namely the complainant is running a firm called M/s S.R. Steel Industries situated at Tiwana Road, Jalalabad. The accused is running a firm called M/s Manthan Trading Company. They have business transaction for a longer period. The complainant alleged to have issued Cheque bearing No. 519873 of State Bank of India for a sum of Rs. 50,000/- on 05.06.2015. The complainant alleged that he had issued cheque for Rs.50,000/- without filling up the words in rupees. It is alleged that the accused has taken undue advantage of not filling up of the words in rupees. He had*

prefixed '2' digit and treating the cheque has been issued for a sum of Rs.2,50,000/-. In this regard, FIR was registered on 08.11.2015. The petitioner has filed bail application under Section 438 of Cr.P.C. before the Additional Sessions Judge, Fazilka. On 21.12.2015, Additional Sessions Judge, Fazilka rejected the bail application of the petitioner stating that "no doubt it has become apparent that there is business transaction between the parties in the instant case but the cheque which is valuable security has been tampered with and it would amount the forgery of valuable security and prime-facie offence of forgery of valuable security is made out. Thus the custodial interrogation of accused is required in this case".

Both the complainant and petitioner are into business relating to iron and steel for the last 3 years. Their transactions were going on very well. However, on 05.06.2015 it was alleged that a cheque was issued for a sum of Rs. 50,000/-. According to the complainant, it has been tempered to that of Rs. 2,50,000/- taking the undue advantage of not filling up the words in rupees. Therefore, it was contended by the complainant that custodial interrogation of the accused is very much required.

Learned State counsel simply stated that for the purpose of interrogation of the petitioner, police custody is required. However, no reasons have been assigned as to why the petitioner's custodial interrogation is required and the question is whether the petitioner has tempered the cheque or not and the complaint was given after nearly about 5 months from the date of issuance of cheque. Learned counsel for the complainant submitted that he had requested the State Bank of India for stopping payment with reference to the cheque of Rs.2,50,000/- issued on 05.06.2015. Such a request was made on 15.06.2015. By that time, the cheque was cleared by the Bank. Since the cheque transaction is already over and the original cheque is in custody of the Bank. Therefore, question of tampering the same or any other record by the petitioner may not arise. It is to be *noted that arrest leads many serious consequences not only for the accused but for the whole family and at times for the entire Society. Most people do not make any distinction between arrest at a pre-conviction stage or post conviction stage. Therefore, the petitioner is entitled and is granted interim bail for the period of 60 days, subject to the following conditions:-*

i) that the petitioner shall make himself available for interrogation, as and when required, by the police;

ii)that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and

iii)that the petitioner shall not leave India without the prior permission of the Court and shall surrender his passport, if any.

At this stage, learned counsel for the complainant disputed giving a request letter to the State Bank of India to not to pass the cheque dated 05.06.2015 in favour of the petitioner on 13.06.2015. Despite the request of the complainant, concerned branch of State Bank of India has cleared the cheque. It is also learnt that the complainant has given complaint against the State Bank of India. The jurisdictional police are investigating the matter.

The State counsel is directed to take notice for official respondents and to file status report in respect of complaint filed against the petitioner as well as State Bank of India on or before 15.01.2016."

Learned State counsel upon instructions from HC Gurbax Singh has stated that the petitioner has since joined investigation.

Accordingly, the present petition is allowed. Order dated 28.12.2015 passed by this Court is made absolute.

Disposed of.

15.01.2016 **(TEJINDER SINGH DHINDSA)**
JUDGE

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