

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-4730 of 2016 (O&M)
Date of Decision: 29.02.2016

Vishal Kumar

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Sunil Chadha, Sr. Advocate with
Mr. Kirpal Singh, Advocate for the petitioner.

Ms. Anmol Grewal, A.A.G., Punjab.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the present petition filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case F.I.R. No.4 dated 1.1.2016 under sections 420, 120-B I.P.C registered at Police Station, City Kharar, District S.A.S. Nagar.

Learned counsel for the parties have been heard.

Briefly noticed, F.I.R came to be registered on the complaint of one Ram Chander Ahuja. Accusations against the present petitioner and co-accused Gautam Kumar are with regard to transfer of shares by way of forged documents. Complainant alleged that he had got registered a company in the name of M/s Contemporary Land Marks Ltd. in the year 2006 and in which he along with his wife namely Manjeet Ahuja were the initial Directors. It is alleged that under a planned conspiracy the present petitioner as also co-accused Gautam Kumar came to be inducted as share holders in the company and thereafter petitioner was also made a Director. Complainant alleged that he had 25000 shares in the company and 20000 shares were in the name of his wife Manjeet Ahuja. Allegation in a nutshell is that on the strength of a forged share transfer deed present petitioner and

Gautam Kumar have got transferred the afore-noticed share holding of the complainant as also his wife in their names.

Having heard counsel for the parties at length and having perused the pleadings on record, this Court is of the considered view that the petitioner is entitled to the benefit of bail.

At the very outset, it may be noticed that although the transfer of share holding on the basis of an alleged forged share transfer deed relates back to 17/18.1.2007, yet, the complaint leading to the registration of F.I.R was submitted on 8.5.2014.

Placed on record at Annexure P-2 is a copy of the petition filed under section 438 Cr.P.C filed by the complainant Ram Chander Ahuja as also his wife Manjeet Ahuja i.e. CRM No. M-21762 of 2010 seeking concession of pre-arrest bail in F.I.R No.74 dated 25.6.2010 under sections 420, 120-B I.P.C registered at Police Station, Dera Bassi, District Mohali. Concededly, complainant in such F.I.R was Gautam Kumar i.e. co-accused in the present F.I.R. Even though, this Court has been informed that a cancellation report was ultimately filed pertaining to such F.I.R, yet, the averments made in the petition duly supported by an affidavit of Ram Chander Ahuja would be relevant. In paragraphs 6 and 7 of such petition the complainant himself had categorically averred that he along with his wife had resigned from the company on 27.6.2007 and such letter of resignation had been accepted by Gautam Kumar. Complainant in the present case Ram Chander Ahuja further had stated that even a public notice had been issued informing the public at large that he along with his wife had resigned from the company as Directors of the company. In such petition

i.e. CRM No. M-21762 of 2010 preferred in the year 2010 itself there is not even a whisper/allegation pertaining to a fraudulent transfer of share holding.

The complainant Ram Chander Ahuja in the present case as also his wife are also stated to have filed a petition under sections 397, 398, 402, 403 and 406 of the Companies Act, 1956 before the Company Law Board, Principal Bench, New Delhi and in which the present petitioner was arrayed as party/respondent no.2 alleging oppression and mismanagement of the company in question. Even in such petition the allegation is not with regard to transfer of shares based on a forged share transfer deed.

Counsel appearing for the petitioner has even referred during the course of hearing to the police investigation conducted upon the complaint and which forms part of the F.I.R and in which it has been noticed that the Company Law Board has taken a view and restored share holding in favour of the complainant Ram Chander Ahuja and his wife Manjeet Ahuja to the extent of 9%. Per contra, version of the complainant in the present F.I.R is of a fraudulent transfer of share holding to the extent of 90%.

Petitioner is in custody since 3.1.2016.

Learned State counsel upon instructions from ASI Harpal Singh would apprise the Court that even though the challan has not been presented, yet, investigation in the case is complete and only a report from the F.S.L is awaited.

The basic issue with regard to transfer of shares having been effected if at all on the basis of forged share transfer deed, would be a matter of evidence to be led before the Trial Court.

In the light of the circumstances noticed herein above, the petitioner is held entitled to the benefit of bail. Present petition is, accordingly, allowed. Petitioner be enlarged on bail subject to satisfaction of C.J.M./Duty Magistrate, Mohali.

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

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

29.02.2016
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