254 ***IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH***

CRM-M-3277 of 2017
Date of decision: 02.02.2017

Anil Chander @ Anil Kumar & Anr.

... Petitioners

vs.

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

* * *

Present : Mr. Sapan Dhir, Advocate
for the petitioners.

Mr. Neeraj Yadav, AAG, Punjab.

Mr. Baljinder Singh, Advocate,
Mr. Jagtar Kureel, Advocate
for the complainants.

* * *

DEEPAK SIBAL, J.(ORAL)

Through the present petition filed under Section 438 of the Code of Criminal Procedure, 1973 (for short "the Code") Anil Chander son of Bhuvneshwar Prashad and Santosh @ Sonu wife of Anil Chander seek the grant of concession of anticipatory bail in FIR No. 1, dated 07.01.2017, registered under Sections 406, 420 and 120-B IPC, at Police Station Naya Gaon, District SAS Nagar, Mohali(Punjab).

As per the FIR the petitioners, alongwith their co-accused which includes Bhuvneshwar Prashad-father of petitioner No.1 and father-in-law of petitioner No.2 had collected huge amounts of money through kitties/committees from several persons, who were socially known to them and then turned their back to them when the time came to return the money. The FIR further goes on to allege that the petitioners along with their co-accused had also borrowed money from several persons on one pretext or the other but had refused to return the same on demand.

Learned counsel for the petitioners submits that there was no document or any proof whatsoever which would link the petitioners to the alleged fraud. It was further submitted that recently the father of petitioner No.1 had taken a loan of about ₹2 lacs from Fullerton India Credit Co.Ltd. (for short “the Company”). This loan had been taken through one Aman Kumar on whose asking six blank cheques were given by the father of petitioner No.1 to the above said Aman Kumar as the petitioner No.1's father was informed that this was one of the requirements for securing the loan. He submits that these blank cheques were misused by the complainants in connivance with the above said Aman Kumar and a complaint in this regard was made by the father of petitioner No.1 to both the Punjab Police and the Chandigarh Police. Learned counsel for the petitioners has further submitted that the entire dispute is civil in nature and that in the back ground of the allegations made it was open to the complainants to file suits for recovery of their unpaid amounts, which some of them already had. It is still further submitted that that the complainants could not have lend any money to the petitioners as they did not have any licence for the same.

In support of his case, learned counsel for the petitioners has cited an order dated 27.01.2017 passed by this Court in **CRM-M-2489 of 2017 titled as Neelam Sharma and Anr. Vs. State of Punjab** through which Neelam Sharma and others who are stated to have been attributed the same role as the petitioners, have been granted ad interim anticipatory bail.

Opposing the grant of anticipatory bail to the petitioners, learned State counsel submits that after the receipt of the complaint, but before registration of the FIR a detailed inquiry was conducted into the allegations made by the complainants by a senior officer-the Deputy Superintendent of Police, City-1, SAS Nagar, Mohali (for short "the DSP). The inquiry report by the DSP was produced. A copy of the same was also handed over to the learned counsel for the petitioners. The same is ordered to be taken on the record as Annexure Mark-A.

A perusal of the aforesaid inquiry report shows that during the course of the inquiry, the petitioners and their co-accused were sought to be associated. Several opportunities were granted to them to appear before the DSP but they chose to keep away. On the other hand, as many as 32 persons alleging victimization at the hands of the petitioners and their co-accused appeared before the Inquiry Officer and got their statements recorded.

As per the inquiry report, the petitioners and their co-accused had collected money from several persons who were socially known to them on earlier points of time and had returned the same, thus earning their trust. However, recently they collected/accepted large sums of money from the same and other persons primarily under the garb of managing kitties/committees. Such collection was from a large group of persons and the inquiry revealed that so far it had been found that the petitioners along with their co-accused had defrauded several persons to the time of about ₹2.50 crores. To return the money to some of the victims cheques had been issued by the father of petitioner No.1 which had all been dishonoured. Others had been simply refused the return of their money and rather issued threats.

Learned State counsel submits that the investigations made so far reveal that the petitioners along with their co-accused have duped 32 persons and that there are likely to be many more such victims but further investigations have literally been stone walled by the non-cooperative attitude of the petitioners as they are absconding. Several raids have been conducted on their house for the last several months only to find the same to be locked. In spite of strenuous efforts made by the police there is no trace of the petitioners who seem to have vanished into thin air.

As per the learned counsels for the State and the complainants allegations of the father of petitioner No.1 with regard to the misuse of cheques by one Aman Kumar has been gone into by the DSP in an inquiry conducted on the complaint filed by the father of petitioner No.1 and the same has been found to be false. The inquiry has found that there were no blank cheques given by the father of petitioner No.1 to the aforesaid Aman Kumar and that as per the procedure for securing loan the father of petitioner No.1 had given only one cancelled cheque.

After considering the entire gamut of facts as noticed above, with the seriousness that they deserve and I am of the definite opinion that the petitioners are not entitled to be granted the concession of anticipatory bail.

The allegations against the petitioners are serious. The investigations done till date reveal that there are at least 32 persons, who have been duped by the petitioners collectively for an amount of about ₹2.50 crores. The victims include those who had contributed out of their hard earned savings to the kitties/committees being run by the petitioners and who had paid their due installments to the petitioners with the hope of getting the same back in the form of a lump sum amount. However, that was not to be, as the petitioners after collecting the amounts have turned their backs upon such contributors.

The investigation done so far further shows that from some of the victims, the petitioners had initially borrowed money and had returned the same, thus earning their trust. Later, amounts were borrowed on the pretext that the petitioners were in financial need. Since these victims were socially known to the petitioners and trusted them, they gave money to them. However, on demand, this money was refused to be returned by the petitioners accompanied by threats. To return the money to some of the victims the father of petitioner No.1 had issued cheques which were dishonoured.

I agree with the submissions made by learned State counsel that there may be more of such victims. The money trail of the amounts alleged to have been accepted by the petitioners, which incidentally is alleged to be in cash is still to be established. Whether there was any documentation with regard to the alleged collection/acceptance of money by the petitioners needs to be probed. Whether or not the money allegedly accepted by the petitioners was further invested by them needs to be investigated. The house of the petitioners is being raided for the last several months but the same has always been found to be locked. Apparently, the petitioners are absconding and evading arrest. As to where the petitioners have been and what have they done during the period they have been absconding needs also to be investigated. The inquiry by the DSP which is referred to in the earlier part of the order clearly makes a mention that inspite of being repeatedly summoned the petitioners failed to appear before the DSP showing their non-cooperative attitude.

I am of the opinion that to unravel the complete truth the custodial interrogation of the petitioners is warranted. Also that the conduct of the petitioners is not such which would entitle them to the grant of concession of anticipatory bail.

The submission of learned counsel for the petitioners that the victims should have had a licence to lend the money to the petitioners, at this stage of the proceedings, in my opinion, is not relevant.

The allegations of the father of petitioner No.1 with regard to the misuse of blank cheques given by him to one Aman Kumar have already been gone into by the DSP in an inquiry conducted by him on the complaint filed by the father of petitioner No.1. Such inquiry has revealed that no blank cheques were given by the father of petitioner No.1 to the said Aman Kumar and that as per the procedure for securing loans the father of petitioner No.1 had given only one cancelled cheque to him.

The reliance of counsel for the petitioners on an interm order passed in Neelam Sharma's case (supra) would also not be of much help to the petitioners as the same is an interim order and does not consider, amongst other facts, the reports of the DSP as considered by me earlier.

In view of the above, I do not consider the present petition to be a fit case for the grant of concession of anticipatory bail to the petitioners.

Dismissed.

Nothing said hereinabove shall be considered to be an expression of opinion on the merits of the case.

(Deepak Sibal)
Judge

February 02, 2017
rimpal

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No