IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-39595 of 2016
Date of Decision : 01.03.2017

Dinesh and another ....Petitioners

Versus

State of Haryana ....Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Deepak Sonak, Advocate
for the petitioners.

Mr. Vikramjit Singh, Addl. AG, Haryana.

Mr. Vijay Kumar Sheoran, Advocate
for the complainant.

Surinder Gupta, J.

Present petition has been filed by petitioners under Section 438 of Code of Criminal Procedure seeking anticipatory bail in case bearing FIR No. 244 dated 13.10.2016 for offences punishable under Sections 420, 467, 468, 471 read with Section 120-B of Indian Penal Code (for short 'IPC') and 3/2 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013, registered at Police Station Civil Lines, Bhiwani.

2. As per allegations in the FIR, petitioners represented before the complainant that their company Fair-Trade has permission from SEBI to take the fixed deposits and pay interest @ 8%. Complainant deposited ₹1,31,00,000/- with petitioners, but they did not return the principle or paid any interest, as result a sum of ₹1,65,53,346/- was due towards them as on 10.07.2016.

3. Learned counsel for petitioners has argued that the complainant is a petty government employee and could have no source to deposit huge amount of ₹1,31,00,000/-. He has not produced any receipt of deposit of

this amount. The police without verifying this fact has registered FIR against petitioners.

4. Learned State counsel and learned counsel for the complainant have argued that there is well known and reputed Fair-Wealth Company at Gurgaon. Petitioners by using the name of that firm opened the account in Central Bank of India (Branch Code-403), Bhiwani in the name of Fair-Wealth Commodity and started taking money from the public with promise to pay interest @ 4% per month. When some people contacted Fair-Wealth Securities Ltd. and Fair-Wealth Commodities Ltd., Gurgaon, they disclosed that they have no branch at Bhiwani and petitioners were not representing their firm. A public notice, copy of which is Annexure R-2, was also issued to general public by above companies and complaint was filed against petitioners, copy of which is Annexure R-3. Petitioners while getting payments, were issuing fake receipts for and on behalf of Fair-Wealth Company, copy of which is Annexure R-4 (colly). When investors raised issue, petitioners issued cheques towards payment of amount deposited by them which got bounced and number of complaints under Section 138 of Negotiable Instruments Act have been filed against petitioners in Courts at Bhiwani, as is clear from copy of orders passed by the trial Court {Annexure R-6(colly)}.

5. Learned State counsel has argued that during investigation, number of investors have come to the police and got recorded their statements that they have also invested money with petitioners and have been cheated. The accused in fact were running a racket to defraud by alluring public to invest their money with them on the assurance that they will pay heavy interest @ 4% per month.

6. Learned counsel for the complainant has also produced on file copy of accounts prepared on 10.07.2016 by petitioner no. 1-Dinesh Kumar showing ₹1,65,53,346/- as due towards complainant and others.

7. Learned State counsel submits that custodial interrogation of petitioners is required for fair investigation, so as to go to the root of the case and find as to where the money which was deposited in the account of petitioners has been transferred.

8. After giving my anxious thought to submissions of learned counsel for petitioners, learned State counsel and learned counsel for the complainant, I find that documents placed on file indicate a racket being run to defraud the general public. A number of investors have now approached the police and made their statements against petitioners. To verify the authenticity of those statements and to thoroughly investigate the case, the police certainly require custodial interrogation of petitioners. The documents on file indicate that investors with complainant have been defrauded of crores of rupees and I find no reason to exercise discretionary power of this Court to extend the benefit of anticipatory bail in such type of cases.

9. Keeping in view the gravity of offence and to facilitate the fair investigation, this petition is dismissed.

March 01, 2017 **(SURINDER GUPTA)**
jk **JUDGE**

Whether speaking/Reasoned Yes/No

Whether Reportable Yes/No