

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

**CRM-M-9842-2017
Date of decision :12.09.2017**

Deepak Gill

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. Ankur Malik, Advocate
for the petitioner.

Mr. K.S. Aulakh, DAG, Punjab.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. for grant of pre-arrest bail has been filed by petitioner – Deepak Gill an accused in FIR No.25 dated 22.02.2017 for offences under Sections 406, 408, 420 IPC registered with Police Station City Nawanshahr.

Briefly stated facts of the case are that FIR in question was registered on the basis of a written complaint submitted by complainant Kamlesh Kumar son of Late Louhka Ram resident of H. No.313, village Maloya, Chandigarh and a person authorized by M/s C.M. Associate Private Limited Mohali Branch Nawanshahr.

Inter alia in the said complaint addressed to the Senior

Superintendent of Police, Nawanshahr it has been contended that the company M/s C.M. Associate Private Limited is having a branch office at Nawanshahr in which Deepak Gill son of Manzoor Masih Gill resident of H. No.134 village Surapur, Tehsil Nawanshahr was appointed as Branch Manager, in that way all the affairs of the branch were under control of Deepak Gill; that in the month of September 2016, Deepak Gill in order to cheat the company by way of garbing its money retained the collection amount using the same for his personal needs; that the company officials regularly asked him to deposit the money so collected, but he stated that money was in market and was still to be collected; that in the second week of October 2016 the officials of company came to know that Deepak Gill had already taken the collection without depositing it in the account of the company; that on 24.10.2010 the company decided to move a complaint against Deepak Gill with regard to embezzlement done by him in the company, at that time he (Deepak Gill) along with all his family members namely Reena (mother), Paraj (paternal uncle) etc. approached the complainant and admitted his (Deepak Gill) guilt in presence of all; that Deepak Gill and his family members undertook that they would return the embezzled amount of ₹7,99,055/- till 24.10.2016 which was reduced into writing and that writing was signed by petitioner – Deepak Gill along with his family members. However, later on the money was not paid / deposited by Deepak Gill or his family members rather Deepak Gill did not receive phone calls, hence the officials of the said company visited his house, but Deepak Gill started threatening such officials stating that in case they came again they would be eliminated, mother and paternal uncle of Deepak Gill also misbehaved with such officials.

Apprehending his arrested in this case, he has approached Sessions Court by filing application for pre-arrest bail, however, said application was dismissed by the Court of Additional Sessions Judge, Shaheed Bhagat Singh Nagar vide his order dated 15.03.2017, as such, he has knocked at the door of this Court seeking similar relief, notice of the petition for grant of pre-arrest bail filed by the petitioner before this Court was given to the State.

I have heard learned counsel for the petitioner, learned State counsel, besides, going through the record and I find that absolutely no case for grant of pre-arrest bail to the petitioner is made out.

Allegations against the petitioner are quite grave and serious in nature, committing breach of trust with the money belonging to the company M/s C.M. Associate Private Limited which had been entrusted to him in the official capacity.

The undertaking given by him in writing addressed to Manager of company is dated 21.10.2016 goes to show that he had conceded his crime. This document is witnessed by several other persons. After doing that the petitioner has came up with a straight face submitting that he had not executed any such writing and had not done any embezzlement and a false case has been planted upon him. If the petitioner had not done anything wrong there was no occasion for the company to lodge a wrong FIR against him nevertheless his confession in writing is there which is stated to be bearing signatures of his other family members. Although the petitioner was granted interim bail and was directed to join investigations but learned State counsel has informed that he has not rendered full cooperation to the investigating agency and had not got the amount in

question recovered from his possession.

In a citation **State Represented by the C.B.I. vs. Anil Sharma, 1997(4) RCR (Criminal) 268**, it was observed that *custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail.*

At this stage question to be decided is that as to whether pre-arrest bail is to be granted or not. The truthfulness of the allegations in the FIR is not to be determined by holding a mini trial and the allegations are to be taken as such. Pre-arrest bail is a relief which is not to be granted just at the asking of an accused in routine manner but in exceptional circumstances. Its purpose is not to screen the criminals from legal action and to save them from custodial interrogation which being mere elicitation-oriented, result in the extraction of the important information from mouth of a criminal. Custodial interrogation of the petitioner is necessary for proper and effective investigation. In case such custodial interrogation is denied to the investigating agency, that will leave many loose ends and loopholes, adversely affecting the investigation which is uncalled for. Thus finding no merit in the petition, the same stands dismissed.

12.09.2017

Gaurav Sorot

**(H.S. MADAN)
JUDGE**

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**