IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.13107 of 2018
Date of Decision-17.04.2018

Arun Bhardwaj ... Petitioner
Versus
State of Punjab ... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Deepak Sabharwal, Advocate for the petitioner.

Mr. Hittan Nehra, Addl., AG. Punjab.

Ms. G.K. Mann, Advocate and Mr. Chand Deep Singh, Advocate for the complainant.

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RAJ MOHAN SINGH, J.

[1]. Petitioner seeks grant of anticipatory bail under Section 438 Cr.P.C in case bearing FIR No.0018 dated 30.1.2018 registered under Sections 420, 465, 467, 468, 471 IPC at Police Station Phase-1, SAS Nagar, Mohali.

[2]. FIR was registered at the instance of complainant Arvinder Singh against Mrs. Gurpreet Kaur, Harmohinder Singh and petitioner Arun Bhardwaj. Complainant alleged that M/s Sera Cue Labs Private Limited is a company registered under the Companies Act. The company was incorporated on 15.12.2014 and launched its business operations from Ludhiana in January 2015 in the field of pathological tests. Complainant was one of the directors of the company having joined the company as a director on 15.12.2014. Initially, the complainant was looking after

the day to day business of the company, but he was removed from the said assignment vide resolution dated 06.10.2015. Harmohinder Singh (COO) was appointed as the sole incharge of the company. Complainant further alleged that all the three accused in active connivance with each other have entered into several agreements with franchisees after 06.10.2015. The accused even signed new franchisees at Neemrana, Jalandhar, Jaipur, Kanpur and Jammu and took at least Rs.50,00,000/- on an average from each franchisees without notice to the complainant. Complainant was never informed by the accused. Even e-mails sent by the complainant for supply of relevant information were ignored. Even the agendas of Board meetings and general body meetings were not sent to the complainant and the business activities were kept secret. The amount so received from different franchisees has not been shown, rather the same was mis-utilized and mis-appropriated. The revenue collected from path labs has been mis-appropriated. Even the signatures of the complainant were forged on various documents like balance sheets, share transfer certificate and ROC documents etc. Complainant further alleged that accused No.3 in connivance with his wife increased his remuneration without notice to the complainant. Harmohinder Singh in connivance with other accused, purchased a car worth Rs.14,00,000/- from the company account without notice to the complainant. Petitioner in connivance with other accused, withdrew an amount of

Rs.7,00,000/- and the same was transferred in his personal account without information to the complainant. Good will of the complainant was used by the accused without knowledge of the complainant for raising huge amount from various franchisees/vendors. They used to commit further forgery by continuing to use the registered office/address of the complainant's mother-in-law even after expiry of lease deed in October 2015 and they continue to use the address till date. Due to mis-doings of the accused, various franchisees registered police complaints against the complainant and the complainant was named as one of the directors of the company and has been involved by the accused in various police complaints. They used to portray involvement of the complainant to attract investment from various franchisees knowing fully well that the complainant was not involved in the responsibility of the company since 06.10.2015.

[3]. Learned counsel for the petitioner vehemently submitted that vide memorandum of understanding dated 16.03.2015, petitioner was agreed to give unsecured loan of INR Rs.40,00,000/- @ 10 % interest per annum to Sera Cue Labs Private Limited. The duration of loan was agreed between 12-18 months from the date of transfer of funds. As per memorandum of understanding, the first party will return the funds to second party i.e. the petitioner after the loan period, unless both the parties agree for an extension. First party i.e. the complainant was also

agreed to undertake to give personal guarantee of unsecured loan given to Sera Cue Labs Private Limited by the petitioner as per the ratio of their share capital in the company. By referring to Clauses 5 and 6 of the memorandum of understanding, learned counsel contended that petitioner invested an amount of Rs.37,00,000/- in Sera Cue Labs Private Limited vide cheque dated 16.03.2015 for a sum of Rs.20,00,000/-, cheque dated 11.05.2015 for a sum of Rs.15,00,000/- and cheque dated 22.06.2015 for a sum of Rs.2,00,000/-. On 29.11.2016, resignation was submitted by the petitioner from the Board of Directors of Sera Cue Labs Private Limited and the resignation was not accepted. Out of total amount of Rs.37,00,000/- invested by the petitioner, only a sum of Rs.7,00,000/- was transferred in the account of the petitioner and for remaining amount of Rs.30,00,000/-, petitioner had already filed a suit for recovery under Order 37 of CPC along with interest and other charges accruing thereon. The said suit is statedly pending.

[4]. Learned counsel further submitted that petitioner has already joined the investigation, but the prosecution with all *mala fide* intention, seeks to arrest the petitioner, despite the fact that the entire controversy is having civil profile. Learned counsel also referred to the communications received from the complainant in respect of financial position of the company in the context of not clearing the salary for the complete staff. The communication sent by Dilpreet Sahi to all the directors was replied by the

complainant acknowledging his consent to go ahead as he was in Bangalore at the relevant time and authorized Dilpreet Sahi as his proxy in the proposed meeting. By referring to other set of documents, learned counsel submitted that the complainant even before his resignation was acknowledging the business dealings of the petitioner and others in respect of collection details. In respect of vehicle, learned counsel submitted that the vehicle was purchased by the co-accused Harmohinder Singh for which other directors were duly taken into confidence. In the communication received from co-accused Harmohinder Singh, it was mentioned that he was having no personal vehicle and with the salary and his liabilities, he cannot get the car financed in his name. Approval of the company was sought and he showed his readiness to pay margin money and installments can be deducted from his salary. By referring to *inter se* communications between the directors, learned counsel submitted that there was no mis-chief or mis-appropriation done by the petitioner.

[5]. On the other hand, learned State Counsel duly assisted by learned counsel for the complainant submitted that Harmohinder Singh was the sole incharge for day to day affairs of the company. Petitioner along with other co-accused has forged the documents and attracted number of franchisees/vendors without information to the complainant. They have committed forgery by continuing to use the registered office of the complainant even after expiry of the lease in October 2015.

Complainant had to satisfy number of franchisees as the accused have mis-used the good will of the complainant. Learned State Counsel and learned counsel for the complainant also referred to numerous documents in support of their contention. They have also referred to agreements executed on behalf of Sera Cue Labs Private Limited with different franchisees by the petitioner and co-accused. The alleged resignation of the petitioner was a farce as the same was not accepted. Even after the said resignation, the petitioner kept on working as one of the directors of Sera Cue Labs Private Limited and executed undertaking on behalf of the company in number of transactions. Even petitioner was one of the authorized signatory in ICICI Bank as per document dated 19.09.2017. In the meeting of Board of Directors of Sera Cue Labs Private Limited, petitioner was shown to be one of the directors even after alleged resignation. Even as per letter dated 11.01.2016 issued by Dilpreet Sahi, petitioner had agreed to handle the responsibility of sales and marketing including the strategic intent and tactical measures wherever required. Even as per e-mails, petitioner was proved to be active director of the company.

[6]. Learned counsel for the complainant further referred to the police report submitted in one of the case at Delhi arising out of FIR No.600 dated 01.10.2016 registered under Sections 420, 406, 120-B IPC at Police Station Vikaspuri, wherein petitioner is one of the accused. As per police report, the company bank

accounts reveal that hefty cash of around Rs.90,00,000/- has been withdrawn, wherein the petitioner is one of the authorized signatories on the said withdrawal slips and cheques. Moreover, fictitious expenses/figures have been filled in company balance sheets and around Rs.48,00,000/- have been transferred to various unknown accounts. Petitioner has also transferred Rs.7,00,000/- in his personal account, wherein salary of the employees, amount due towards vendors and franchisee investors was not paid. The luxury car Maruti S-Cross worth Rs.14,00,000/- has been purchased in the name of the company using the franchisee investor's money and is being used by H.M. Singh (COO) for his personal use. Petitioner and other accused are however not cooperating in the investigation for providing relevant documents and bills supporting various transactions. By referring to numerous documentary evidence, learned State Counsel and learned counsel for the complainant stated that huge amount has been withdrawn by the petitioner in his daily account in ICICI Bank as per summary of accounts of various dates. Learned State Counsel and learned counsel for the complainant also referred to statement of Sanjay Sukhija i.e. company's statement dated 30.12.2017.

[7]. After perusing numerous documents referred to by the learned counsel for the parties, I am of the view that though some of the aforesaid documents are available on the website of the company, but still in order to investigate the offence completely,

the police requires custody of the petitioner as the petitioner has not co-operated in a similar case i.e. FIR No.600 dated 01.10.2016 registered under Sections 420, 406, 120-B IPC at Police Station Vikaspuri, wherein police report has been submitted showing in-action on the part of the petitioner despite withdrawal of huge amount from company bank accounts.

[8]. The entirety of facts and circumstances at this stage would not give any indulgence in favour of the petitioner for seeking anticipatory bail. *Prima facie* allegations are quite serious for which custodial interrogation of the petitioner is required by the police.

[9]. At this stage, without meaning anything on merits of the case, I do not wish to grant any indulgence to the petitioner to seek extraordinary benefit of anticipatory bail. The present petition is accordingly dismissed.

[10]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

17.04.2018 **(RAJ MOHAN SINGH)**
Prince **JUDGE**

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No