

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17740-2018

Date of Decision: 04.05.2018

Sudhir Yadav

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Vipin Pal Yadav, Advocate,
for the petitioner.

Mr. Surinder Singh, A.A.G., Haryana

AMOL RATTAN SINGH, J. (ORAL)

By this petition, anticipatory bail is sought by the petitioner after FIR No. 0261, dated 22.12.2017, was registered against him at Police Station Kosli, District Rewari, alleging therein the commission of offences punishable under Sections 420, 467, 468 and 471 of the IPC.

Learned counsel for the petitioner submits that though the petitioner actually is not responsible for the issuance of the cheque which was given to him by Pawan Kumar, even if for the sake or arguments, the contents of the FIR are to be accepted at face value, to the extent that since it was the petitioner who was presented the cheque at the bank, (the Manager of which is the complainant in the FIR), even then the entire evidence being documentary in nature which is already in the possession of the investigating agency, custodial interrogation of the petitioner is not required.

Learned counsel for the petitioner also relies upon a judgment of a co-ordinate Bench of this Court in Ram Kumar Garg vs. U.T., Chandigarh 2014 (7) RCR (Criminal) 2347, to submit that even where the complainant had advanced a loan of Rs. 6,00,00,000/- to the accused, it was the duty of the complainant also to verify whether the petitioner therein (accused) was the sole proprietor or only a partner in the firm especially when the complainant advancing the loan of Rs. 6,00,00,000/- and further that since the case was based on documentary evidence, the custodial interrogation of the petitioner was not required.

In that case, the petitioner therein had been admitted to anticipatory bail.

He further submits that even as per the affidavit of Pawan Kumar, a copy of which has been annexed as Annexure P-2 with the petition, it is stated that he had given the cheque to the petitioner as he (Pawan Kumar) had transactions/dealings with the University.

Learned counsel for the State, on the other hand, even after taking instructions from the ASI, who is present in Court today to assist him, submits that the petitioners' custodial interrogation is required to know the *modus operandi* between him and his co-accused Pawan Kumar.

Having considered the above, including the judgment cited by learned counsel for the petitioner, in the opinion of this Court, the circumstances in the two cases are wholly different, as in the present case, the petitioner not being any employee/contractor of the University, still presented a cheque of Rs. 40,00,000/- shown to be issued in his name, though the cheque is stated to have been given by Pawan Kumar to the petitioner.

As to why the petitioner would present a cheque to the bank for a sum of Rs. 40,00,000/-, shown to be issued by a University with which the petitioner

had no financial dealing whatsoever, is to be looked into and therefore, at this stage at least, it cannot be presumed that the petitioner is wholly innocent.

As regards the documentary evidence being already available with the investigating agency, i.e. the cheque in question, I again do not agree with the contention of learned counsel because it is just not a question of documentary evidence being available for the purpose of comparison of signatures etc., but also a question of establishing any nexus between the petitioner and Pawan Kumar who is still absconding.

Hence, even possibly to try and determine the whereabouts of Pawan Kumar and the method of operation between them, (if any), I do not consider this is an appropriate case where the petitioner can be admitted to anticipatory bail.

Consequently, this petition is dismissed.

However, nothing stated hereinabove will be taken to be a comment of this Court on the actual merits of the case for or against the petitioner, which would be wholly gone into by the investigating agency and the competent court at the proper stage, on the basis of evidence gathered/led.

However, whether or not the petitioner is to be arrested, or whether he himself has been duped by Pawan Kumar, would be something which would be gone into by the investigating agency.

May 04, 2018
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.