

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

CRM M-20164 of 2017

Date of decision : 23.02.2018

Jai Bhagwan

...Petitioner

V/s

State of Haryana

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Pratham Sethi, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG Haryana.

Mr. R.S. Rai, Sr. Advocate with
Mr. Gautam Dutt, Advocate for respondent no. 2.

RAJAN GUPTA J.

Petitioner seeks concession of pre-arrest bail in a case registered against him under sections 420, 406, 120-B & 506 IPC vide FIR No. 341 dated 04.05.2017 at police station Sector 7, District Faridabad. It has been urged before the court that entire transaction is civil in nature. No criminality is involved in the case. FIR is a result of financial crises being faced by the proprietorship firm. Petitioner is not required for custodial interrogation. He is, thus, entitled to concession of pre-arrest bail. Prayer has been opposed by State counsel. According to him, petitioner did join investigation pursuant to interim directions given by this court but failed to cooperate. He has referred to reply filed by way of affidavit of Aman Yadav, Assistant Commissioner of Police, Ballabgarh, Faridabad. It has been stated therein that accused who had formed a partnership firm alongwith respondents no. 2 & 3, transferred funds from the partnership

account into his proprietorship firm without the knowledge of other partners i.e. respondents no. 2 & 3. In this manner, petitioner transferred a sum of Rs.3,31,39,500/- into his proprietorship account through NEFT & RTGS.

Paras 3, 4, 5, 6 & 7 of the affidavit read as under:-

- “3. That during investigation, record was collected. As per bank account No. 3179002100108556 of Punjab National Bank of the partnership firm M/s Panther Security Services, the petitioner transferred a sum of Rs. 3,31,39,500/- during the period 31.08.2015 to 07.05.2016 in the account No. 31880448437 of State Bank of India of the proprietorship firm of the same name as M/s Panther Security Services through NEFT and RTGS. The details of amount transferred to sole proprietorship firm of the petitioner from the partnership firm and mode of transfer with date are mentioned in Annexure R-1.
4. That besides the above said amount of Rs. 3,31,39,500/- transferred in the proprietorship firm of the petitioner, the petitioner also used about Rs. 1,10,57,184/- of the partnership firm in the expenditure of his proprietorship firm by making payments by paying salaries of the guards and manager and depositing in ESI and P.G. of the guards and purchase of fuel etc. of the proprietorship firm. However, the petitioner had deposited a sum of Rs. 1,12,81,800/- in the account of the partnership firm from the two bank accounts in Canara bank and State Bank of India of the proprietorship firm during this period.
5. That at present no amount is lying in the partnership firm's account bearing No. 3179002100108556 of Punjab National Bank as per bank account statement.
6. That the statements of the witnesses were recorded. The petitioner had also threatened to kill the respondents no. 2 & 3 when they demanded their money from the petitioner as per the statements made by them and

therefore, section 506 IPC was also added on 06.05.2017.

7. *That the custodial interrogation of the petitioner is required to recover the vouchers and other records to prove the misappropriation of the amount by the petitioner, as the petitioner has not disclosed anything to the investigating officer and despite joining the investigation in pursuance to the order of the Hon'ble High Court dated 001.06.2017, he is not cooperating"*

In view of serious nature of allegations, I am of the considered view that petitioner is not entitled to concession of pre-arrest bail. He was granted a protective order. However, stand of the investigating agency is that he did not cooperate. At the stage of issuance of notice of motion a coordinate Bench of this court took into consideration stand of the petitioner that he was ready to settle the account with the complainant. The court, thus, granted interim bail to him. Matter was later referred to mediation and conciliation centre. However, same remained futile. Under the circumstances, no case for grant of anticipatory bail is made out. Petition is hereby dismissed. It is, however, directed that further investigation be conducted under direct supervision of Commissioner of Police, Faridabad.

February 23, 2018

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No