IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-22508-2017 (O&M)
Date of Decision: 11.05.2018

Hawa Singh Tanwar --Petitioner

Versus

State of Punjab --Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Amit Sharma, Advocate and
Ms. Jasleen Kaur, Advocate for the petitioner.

Mr. H.S. Sullar, DAG, Punjab.

Mr. Vaibhav Narang, Advocate for the complainant.

TEJINDER SINGH DHINDSA, J.

Instant petition has been filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioner in case FIR No.181, dated 13.04.2017, under Sections 419/420/465/467/468/471/120-B IPC, registered at Police Station Civil Lines, Police Commissionerate, Amritsar.

Briefly, it may be noticed that FIR was registered on the statement of Deepak Vig. Complainant asserted that he and his wife were introduced to the petitioner/Hawa Singh Tanwar through Ramesh Kumar Shukla @ Safar. Hawa Singh Tanwar proclaimed himself to be the Secretary of a Human Rights Organization working under the name and style of 'Akhil Bhartiya Human Rights Organization' (ABHRO) as also Chief Editor of a Publication Firm 'Sun Star'.

Precise allegations are that the petitioner induced the complainant as also his wife to lend money to the Publication Firm 'Sun Star' on the promise of attractive returns. A total sum of Rs.88 lakhs is stated to have been made over by the complainant party to the petitioner and such amount is alleged to have been misappropriated.

Learned senior counsel representing the petitioner would submit that the allegations are not well founded as an agreement dated 07.11.2016 had been entered into between the parties and in pursuance to which 8800 shares of the firm had been transferred in the name of the complainant/ Deepak Vig. Further urged that the petitioner ought not to face prosecution in pursuance to the FIR in question as certain cheques issued and having being dis-honoured upon presentation, the petitioner is already facing proceedings under Section 138 of the Negotiable Instruments Act. Yet another submission raised is that the Investigating Agency having received a report from FSL, Mohali as regards the signatures of the complainant on the agreement and objections having been filed by the petitioner, the matter now stands referred to CFSL, Chandigarh and the expert opinion is still awaited. It is argued that under such circumstances and coupled with the fact that the petitioner has already joined investigation, he is entitled to concession of anticipatory bail.

Learned State counsel as also counsel representing the complainant party have sought to demolish the case set up on behalf of the petitioner for grant of concession of pre-arrest bail.

It has been contended that the agreement dated 07.11.2016 is a forged and fabricated document and has been set up by the petitioner only to avoid the monetary obligation that he owed to the complainant. Expert opinion has already been furnished by FSL, Mohali and the opinion recorded is that the signatures on such agreement are not that of the complainant. It is contended that even as per alleged agreement dated 07.11.2016, 8800 shares of the firm are stated to have been transferred carrying a book value of Rs.8800/- and no prudent person having lent a sum of Rs.88 lakhs would accept in lieu thereof, a share transfer carrying value of Rs.8800. The sham transaction pertaining to the agreement dated 07.11.2016 is sought to be further highlighted by submitting that if in pursuance to such agreement, the shares had been transferred, there was no occasion for the petitioner/accused to have given cheques to the complainant towards repayment of the amount in question and which upon presentation have bounced. It is vehemently contended that there was a clear intent from the outset to cheat and defraud on the part of the petitioner.

Counsel for the parties have been heard at length.

Even though, petitioner in pursuance to the interim order passed by this Court has joined investigation but this Court is of the considered view that he is not entitled to the concession of anticipatory bail and his custodial interrogation in the facts and circumstances of the case may well be warranted.

It has gone uncontroverted that the amount of Rs.88 lakhs was received by the petitioner in his bank account through the mode of RTGS. Expert opinion of FSL, Mohali has been received and as per which the signatures on the alleged agreement dated 07.11.2016 pertaining to share transfer are not that of the complainant/Deepak Vig. The submission advanced on behalf of the petitioner that the matter has now been sent to

CFSL, Chandigarh would be of no consequence. The report from FSL, Mohali had been received on 26.11.2017. The objections raised on behalf of the petitioner against such report and on the ground that his signatures had not been obtained in a proper fashion were advanced on a date subsequent i.e. on 08.12.2017. Prima facie, this Court finds merit in the submission raised by counsel for the complainant that the objections filed on 08.12.2017 were an afterthought and upon being confronted with a report dated 26.11.2017 furnished by FSL, Mohali.

Counsel representing the petitioner has also not been able to explain as to under what circumstances the shares of the firm under the alleged agreement dated 07.11.2016 had been transferred only in the name of Deepak Vig/complainant whereas the money by way of RTGS had been deposited in the account of the petitioner/accused not only by Deepak Vig but also his wife. Concededly, no shares have been transferred in the name of the wife of the complainant.

It would also be opposite to take note that in the file pertaining to police investigation, it has been found that the SH-4 Form (Share Transfer Form) that the petitioner had been called upon to present, various infirmities and discrepancies have been noticed. In the initial documents/share transfer form furnished it was found that certain columns were blank but subsequently upon photocopies having been presented by the petitioner, the columns stand duly filled up/entered.

Conduct of the petitioner is suspicious. Huge amount of Rs.88 lakhs is involved. Such amount was deposited in the petitioner's account. No recovery till date has been effected. Court has been informed that there are other FIRs lodged against the petitioner in the States of Maharashtra as also Rajasthan . Petitioner's antecedents are also doubtful.

It is a case which would require a deep and thorough probe.

In view of the above, this Court is not inclined to insulate the petitioner with an order of anticipatory bail.

Petition is dismissed.

It is, however, clarified that the observations made in this order are confined to considering prayer of the petitioner for grant of anticipatory bail and would have no bearing on the merits of the case.

11.05.2018 **(TEJINDER SINGH DHINDSA)**
harjeet **JUDGE**

i) Whether speaking/reasoned? Yes/No

ii) Whether reportable? Yes/No