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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-26723 of 2018
Date of Decision: December 05, 2018

Deepak Kumar

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

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Present:- Mr. Harkesh Manuja, Advocate
for the petitioner

Mr. D.R. Singla, DAG Haryana

Sudhir Mittal, J. (Oral)

The present petition has been filed for grant of anticipatory bail to the petitioner in case FIR No. 856 dated 15.08.2017, registered under Sections 406, 420 IPC at Police Station City Karnal, District Karnal.

In the FIR, it is stated that the petitioner is one of the partners of the Company namely Jeewandeep Industries (P) Limited and that the functionaries of the said Company represented to the public at large that in case money is invested, the same shall be doubled. Specific instances of visits by members of the Company to the office of the complainant have been cited. After the money was invested, the return as promised was not given. On demand being raised, two cheques of Rs. 5 lacs and 6 lacs were issued but the same were dishonored.

Learned counsel for the petitioner submits that the allegations are against seven persons including the petitioner. Out of which, one person namely Rajesh Kamboj is stated to be the Managing Director of the Company and it is also alleged in the FIR that he visited the office of the complainant and handed over the cheque, which was allegedly dishonored. Rajesh Kamboj has been granted

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anticipatory bail by the learned Additional Sessions Judge, Karnal vide order dated 06.03.2018. Against the petitioner, there are no specific allegations except for stating that he was a partner and, therefore, he is also entitled to grant of anticipatory bail. Further, the petitioner is neither the Director nor the functionary of Jeewandeep Industries (P) Limited. He is an investor in the said Company like the complainant. The business model of the Company was such that an investor was required to purchase advertisement of the Company for circulation on the social media. On the basis of 'Likes' received, the concerned person was remunerated. Thus, there are transactions in favour of the petitioner in the accounts of the Company. However, these transactions do not show that the petitioner was a functionary of the Company and, thus, no offence has been committed by the petitioner.

On the contrary, learned State counsel submits with reference to the bank statement of Jeewandeep Industries (P) Limited that the petitioner and his wife were closely involved with the functioning of the Company. Money was deposited in the account of the petitioner and his wife almost on a daily basis. There are also transactions showing that money was specifically deposited for purchase of a car and there are social media messages available with the investigating agency showing the car being presented to the petitioner by Jeewandeep Industries (P) Limited. More than one FIRs have been registered against the petitioner on the same allegations. The PAN card has also been recovered, on which the photograph of the petitioner is affixed but it is in the name of his brother who is mentally challenged. The material available with the police till date shows that the petitioner is one of the moving forces behind the functioning of the Company and this Company has defrauded a large number of members of general public. Thus, the petitioner does not deserve the discretionary relief sought

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for.

Regarding the car presented to the petitioner, learned counsel for the petitioner submits that the same was purchased by the petitioner out of his own funds and his bank statement shows that he is paying installments therefor. The social media messages in this regard were only an advertisement gimmick. Actually, Jeewandeep Industries (P) Limited has not given any car to the petitioner.

The investigation conducted till date points towards the culpability of the petitioner. It appears that although name of the petitioner is not mentioned in the list of Directors of Jeewandeep Industries (P) Limited, he is closely involved in its functioning. This observation is based upon the bank account as well as social media messages available with the Investigating Agency. The fraudulent PAN card also does not portray the petitioner in a good light. Rajesh Kamboj aforementioned was granted anticipatory bail by the learned Additional Sessions Judge, Karnal, because the police was unable to present any evidence against him, although he was named as Managing Director in the FIR. This is not the case presently. The police has collected a lot of information pointing towards the involvement of the petitioner and, therefore, the order of anticipatory bail in favour of Rajesh Kamboj can not come to the assistance of the petitioner. Thus, I am of the opinion that the petitioner does not deserve discretionary relief under Section 438 Cr.P.C.

The petition is, accordingly, dismissed.

December 05, 2018 **[SUDHIR MITTAL]**
reena **JUDGE**

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No

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