IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-41470-2017
Date of decision:-8.1.2018

Ashutosh Negi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr. Pawan Singh, Advocate
for the petitioner.

Mr.Ramandeep Sandhu, Senior D.A.G., Punjab.

Mr.J.S. Khiva, Advocate
for the complainant.

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H.S. MADAAN, J.

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by petitioner Ashutosh Negi, an accused in FIR No.28 dated 12.5.2015 for the offences under Sections 420, 465, 467, 468, 471, 120-B IPC, registered with Police Station Bhikhi, District Mansa.

Briefly stated, the facts of the case as per prosecution story are that complainant Som Nath Mehta from Shiv Shakti Medical Society, Sunam Road, Bhikhi, Mansa had submitted a written complaint addressed to S.S.P., Mansa contending therein that Shiv Shakti Medical Society, Sunam Road, Bhikhi wanted to construct a building for college and hospital, for which loan was required to be raised; that Som Parkash, Hakam Singh, Narinder Singh and Dr.Mukhwinder Singh took the responsibility to raise loan of Rs.100 crores from Darvin Plate Form Capital Ltd. through Som Nath Mehta, who gave a cheque dated 24.5.2013 in the sum of Rs.5 lakhs and Rs.1 lakh in cash besides blank cheque dated 23.7.2013 as initial amount; that after getting the acceptance letter from the bank, Som Nath Mehta, President issued cheque in the sum of Rs.50 lakhs in favour of Darvin Global INC on 26.6.2013 to Sh.Prem Prakash besides giving draft of Rs.50 lakhs in favour of Darvin Global INC; that thereafter a sum of Rs.6 lakhs was deposited in the account of Darvin Global INC with State Bank of Patiala and thereafter in the name of the initial amount; that Gagandeep Singh made a phone calls that father of his wife would come and give Rs.5 lakhs to him in cash; that as per instructions of Gagandeep Singh, Som Nath Mehta gave Rs.5 lakhs in cash to the father of the wife of Gagandeep Singh, who assured that loan would be released shortly but none of all that sort was done; that the society did not receive any loan from Darvin Global INC, in that way cheating was committed with the society. After registration of the formal FIR, the matter was investigated.

Apprehending his arrest in this case, Ashutosh Negi accused had approached the Court of Sessions seeking grant of pre-arrest bail but his such application was dismissed by the Court of learned Additional Sessions Judge, Mansa vide order dated 11.10.2017. As such he has approached this Court craving for grant of similar relief by filing the instant petition, notice of which was issued to respondent – State, which put in appearance through counsel.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

Though the petitioner denies having any concern with Darvin Plate Form Capital Ltd. but then it is specific case of petitioner that he is Chairman of the said company and a sanction letter signed by this petitioner for loan of Rs.100 crore had been delivered. A sum of Rs.40 lakhs is said to have been paid in cash to the present petitioner Ashutosh Negi after withdrawing from HDFC Bank by the complainant in Mumbai in presence of Mohd. Shafique on 9.6.2014. The details of the prosecution case are given in the written reply so submitted by the complainant. Copy of E-Ticket is annexed with the written reply filed contending that present petitioner and other co-accused have formed a gang and they have cheated innocent people of crores of rupees. The present petitioner is main actor in the case and he happens to be mastermind in the entire episode. The petitioner is said to be involved in different cases of cheating in different states of the country. It is asserted that in the year 2014, the present petitioner in connivance with Gagandeep Singh, co-accused had cheated one Bhagwant Singh of District Ludhiana on the pretext to invest the money in property business with an assurance that the amount invested would give profit, in that way a fraud of Rs.28 lakhs had been committed and an FIR No.109 dated 7.5.2014 for the offences under Sections 420, 120-B IPC was registered with Police Station City, Khanna against the present petitioner and others. In that FIR, the present petitioner had approached this Court for grant of pre-arrest bail but his such request was declined observing that the petitioner had earlier also indulged in the act of misappropriation of crores of rupees.

The pre arrest bail is such a relief which is to be granted in exceptional circumstances and not in routine. The allegations against the petitioner are serious of committing fraud and misappropriation of a huge amount and he has also got a past criminal record. It is well settled that custodial interrogation is more elicitation oriented since a person, who is couched in comparative safety of pre-arrest bail would certainly not disclose all the facts within his knowledge which would be inculpatory for him. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for. Furthermore, pre arrest bail is not meant to help the criminals in avoiding custodial interrogation.

Thus finding no merit in the petition, the same stands dismissed.

8.1.2018 **(H.S.MADAAN)**
Brij **JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No