IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-48123 of 2018 (O&M)
Date of Decision: November 15, 2018

Devendra Kumar Aggarwal

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.J.S.Bedi, Senior Advocate with
Mr.Lovekirat S. Chahal, Advocate
for the petitioner.

Mr.Sukhdeep Parmar, DAG, Haryana
for the respondent-State.

Mr.N.S.Shekhawat, Advocate
for the complainant.

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INDERJIT SINGH, J.

Petitioner has filed this petition under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.444 dated 31.08.2018 under Sections 420 and 406 IPC, registered at Police Station Sector-40, Gurugram.

Notice of motion was issued. Learned State counsel as well as learned counsel for the complainant appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that in the present case, FIR was got registered by Milan Aggarwal/Manish Aggarwal. As per the FIR, complainant's uncle D.K.Aggarwal, had met Lovelesh Mohan Singla and his other partners and developed cordial relations. D.K.Aggarwal, Milan Aggarwal are Directors in Agroha Colortech Pvt. Ltd., and both firms are in business of manufacturing colour master batches. Based on the trust of D.K.Aggarwal, no board resolution was made and no signatures of any Director of Prayag Polytech and Agroha Colortech were obtained for these transactions. Based on friendly relations, D.K.Aggarwal and Lovelesh Mohan Singla decided to invest in rubber business. Mr.D.K.Aggarwal assured them that they will get good return of profit in this business with Lovelesh Mohan Singla and others. Their firms M/s Prayag Polytech Pvt. Ltd and M/s Agroha Colortech Pvt. Ltd. transferred funds of ₹54.98 crores approximately. Since 2016, they have been asking Lovelesh Mohan Singla, his wife and sons to return the money but they are giving excuses that very soon money will be transferred in their accounts but not a single rupee has come in the account. Lovelesh Mohan Singla and his family members have started telling the story that money was invested in rubber business and rubber raw material was supplied to J.K.Tyre and CEAT Tyre and once their firms start receiving funds, he and his family members will ensure a meeting with owners of J.K.Tyre and CEAT Tyre. It is also in the FIR that Lovelesh Mohan Singla and others have given cheques, which on presentation, were dishonoured and returned back with the remarks 'Payment Stopped'. It is further stated that with malafide and dishonest intent to cheat complainant party and cause wrongful loss to them and their company, represented the complainant party that the cheques would be honoured etc.

The perusal of the record shows that there are no specific allegations in FIR regarding mistrust or cheating or fraud by present petitioner. No allegation of any type has been levelled against him. Rather, the allegations are against Lovelesh Mohan Singla etc.

Learned counsel for the complainant argued that petitioner in connivance with Lovelesh Mohan Singla, who is his relative, siphoned off money to cheat and fraud by giving it to Lovelesh Mohan Singla, which came back to present petitioner. I find that, first of all, there is no allegation against the petitioner in the FIR i.e. first version. Secondly, it is admitted that it is a firm in which Devender Kumar Aggarwal's family was having 50% share and 50% share was of complainant and his father, who is brother of Devender Kumar Aggarwal. In the FIR, it is stated that not even a single penny has been returned back by Lovelesh Mohan Singla but it is argued, at the time of arguments that ₹9.8 crores was paid to the company by Lovelesh Mohan Singla out of the money lent to him for business. Before the registration of the FIR, a complaint under Section 138 of the Negotiable Instruments Act was filed, in which it is the case of the complainant that loan amount was given to Lovelesh Mohan Singla on interest @ 13.5% per annum but now the complainant party has totally changed their version and argument of learned counsel for the complainant is that petitioner has committed fraud.

Learned counsel for the petitioner has brought to the notice of this Court so many documents to show that all the proceedings were signed by complainant or his father including the audit report. Learned counsel for the petitioner also showed the documents showing that company of the complainant party and present petitioner used to lend money to so many firms. In no way, it can be held that only this amount to Lovelesh Mohan Singla etc. has been lent. Learned counsel for the petitioner argued that transactions are duly mentioned in the books, in the income tax return, in the audit report and were in the knowledge of the complainant. He also argued that due to slump in the market/business, Lovelesh Mohan Singla has not returned the money, therefore, this FIR has been got registered and present petitioner was also involved by the complainant.

The petitioner has already joined the investigation. He is not required for custodial interrogation. Nothing is to be recovered from him. No useful purpose will be served by sending the petitioner to custody.

Keeping in view the facts and circumstances of the case and without discussing the facts of the case in minute details and without expressing any opinion on the merits of the case, I find it a fit case, where the petitioner is entitled to benefit of anticipatory bail. Therefore, the present petition is accepted and the order dated 31.10.2018 granting interim bail to the petitioner, is made absolute.

However, nothing stated above, shall constitute my opinion on merits of the case.

November 15, 2018 **(INDERJIT SINGH)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **No**