

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

Crl. Misc. No.M-9594 of 2018

Date of Decision: 05.10.2018

Jashin Mehra

....Petitioner

Versus

State of Punjab

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. S.P.S. Aulakh, Advocate
for the petitioner.

Mr. Amit Mehta, Sr. D.A.G., Punjab.

Mr. Vaibhav Narang, Advocate
for the complainant.

DAYA CHAUDHARY, J.

This petition has been filed under Section 438 Cr.P.C for grant of anticipatory bail to petitioner-Jashin Mehra in case FIR No.0029 dated 09.02.2018 registered under Sections 406, 420, 352, 506 and 120-B IPC at Police Station Jamalpur, District Police Commissionerate, Ludhiana.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas, he was not involved. The FIR, in question, has been got registered by complainant by making a story with false allegations. The petitioner is a proprietor firm and his father has nothing to do with the affairs of the firm. The name of father of the petitioner has been included in the FIR just to put a pressure to grab money. Learned counsel also submits that the contents of the FIR only shows that there was a business transaction between the petitioner and the complainant

and in case, any amount was due, the complainant was having a remedy to file a suit for rendition of accounts but no such remedy has been availed. Learned counsel further submits that the petitioner firm has been making the payments regularly, which is clear from the statement of accounts and ledger. The petitioner is a young boy and has falsely been implicated in the case. No other case is pending against the petitioner.

Learned State counsel as well as learned counsel for the complainant have opposed the submissions made by learned counsel for the petitioner not only on the ground of nature of offence but also that in spite of specific directions issued by this Court on 08.03.2018 and 15.03.2018, the orders have not been complied with and no schedule of payment has been given. Learned counsel also submits that a detailed order was passed on 26.04.2018 but still no efforts have been made to comply with the orders.

Heard the arguments of learned counsel for the parties and have also perused the contents of the FIR as well as other documents available on the file.

The petitioner was directed to join investigation vide order dated 15.03.2018 and to cooperate with the Investigating Agency. Vide order dated 22.03.2018, the counsel for the petitioner was directed to get instructions as to when the petitioner would pay the entire money due to the complainant along with interest at bank rates. It was also ordered that if the schedule of payment is not given by the next date of hearing, the interim order passed in his favour would be vacated. Thereafter, the petitioner has changed his counsel after having no objection from his earlier counsel. However, again on 26.04.2018, a direction was issued that the Economic Offences Wing of the Punjab Police would take over the investigation and

examine the income tax/sales tax/VAT and CST returns filed by both the parties to determine as to whether any such transaction had actually taken place between the parties and an amount of Rs.2,11,00,000/- (Two crores eleven lacs) is still outstanding against the petitioner towards the respondents. An affidavit of a person of the rank of a Superintendent of Police from the Economic Offences Wing was directed to be filed with all details. However, in pursuance of aforesaid order, an affidavit of Additional Deputy Commissioner of Police, Special Branch, Ludhiana was filed in the Court. The case again came up for hearing on 10.08.2018. It was submitted by learned State counsel that the petitioner has joined the investigation but did not co-operate as certain documents were not supplied and even the queries put by the Investigating Officer were not responded. It was also pointed out by learned State counsel that some material facts have come to the knowledge of the Investigating Officer after filing affidavit by the Additional Deputy Commissioner of Police, Special Branch, Ludhiana and the petitioner was again directed to join investigation and cooperate in the investigation but still neither the order passed by this Court was complied with nor the petitioner responded to the queries put to him by the Investigating Officer.

It is a well settled law that anticipatory bail cannot be claimed as a matter of right and concession of anticipatory bail is to be granted by considering various factors like nature and gravity of offence as well as role of the accused. In case, where the Court is of the considered view that the accused has joined the investigation and co-operated with the investigation and he is not likely to abscond, normally the custodial interrogation is avoided but in spite of giving directions by this Court, the petitioner has not

cooperated in the investigation. The interim order was extended from time to time but in spite of directions issued by this Court, neither any offer was received from the petitioner with regard to payment of the amount nor he has cooperated in the investigation. Not only the present case but many other cases are there against the petitioner.

Accordingly, by seeing the conduct of the petitioner, he does not deserve for further continuation of interim bail as neither the documents have been supplied by him nor he has responded to the queries put to him by the Investigating Officer.

Keeping in view the allegations and conduct of the petitioner, there is no justification to extend the interim order and as such, the present petition, being devoid of any merit, is hereby dismissed.

However, in case, the petitioner surrenders before the trial Court within a period of two weeks from the date of receipt of certified copy of the order and moves an application for regular bail, the trial Court is directed to consider the same and pass necessary orders in accordance with law within a period of one week thereafter.

(DAYA CHAUDHARY)
JUDGE

05.10.2018
gurpreet

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No