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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-813 of 2019

Date of Decision: January 22, 2019

Vishal Devgan

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. R.S. Cheema, Sr. Advocate with
Ms. Tanu Bedi, Advocate
for the petitioner

Mr. D.R. Singla, DAG Haryana

Mr. Navneet Singh, Advocate
for the complainant

Sudhir Mittal, J. (Oral)

The petitioner seeks grant of regular bail in case FIR No. 351 dated 04.05.2018 under Sections 420, 406, 409, 467, 468, 471, 506, 120-B, 34 IPC, registered at Police Station City, Sonapat.

The aforementioned FIR came to be registered on a complaint dated 26.04.2018 filed under Section 156(3) Cr.P.C. by one Jitender Kumar, Proprietor of Jai International Trading Company, Arya Nagar, Kath Mandi, Sonapat City. According to the contents of the FIR, the said complainant invested a sum of Rs. 1.82 crores in an entity known as Sri Hari Overseas Private Limited, which admittedly is a family concern of Deepak Gupta son of Satparkash Gupta. It is alleged that the money was invested because the complainant got taken in by the sweet talk of Deepak Gupta, his wife Pallavi Gupta and his sisters Sunita and Sonal Gupta. The presence of the petitioner is also mentioned at the time of the meeting and it is said that he represented himself to be a Director in M/s Sri Hari Overseas Private Limited. Subsequently, post dated cheques amounting to Rs. 2.04 cores

were given to the complainant but all of them were dishonored, leading to filing of separate complaints under Section 138 of the Negotiable Instruments Act, 1881. Faced with this situation, the complainant got the instant FIR registered.

Learned senior counsel for the petitioner has referred to various documents issued by or on behalf of the complainant to contend that prior to the filing of the complaint under Section 156(3) Cr.P.C., the complainant had never attributed any role to the petitioner and had infact stated that the petitioner was not present at the time of the meeting between the complainant and Deepak Gupta and his other family members. These documents are Legal Notice dated 12.04.2017 (Annexure P-6) issued under Section 138 of the Negotiable Instruments Act, 1881. A second notice under the same provisions dated 20.04.2017 (Annexure P-6/A) and the complaint Annexure P-7 filed under the aforementioned provisions. Thus, the petitioner has been involved in the present FIR with the malafide intentions. It is further argued that the present FIR came to be registered only after this Court stayed the proceedings against the petitioner in the complaint filed under Section 138 of the Negotiable Instruments Act, 1881 vide order dated 20.04.2018 (Annexure P-7C) and thus, this also establishes that the present FIR is motivated by malafides. Moreover, the money was advanced in March-April 2016 through bank transactions and the FIR came to be registered almost two years later; in between there is no evidence on record to connect the petitioner with the said money as the money remained with the Company concerned and was never transferred to the account of the petitioner.

The second limb of the arguments of learned senior counsel is that the main accused in this case is Deepak Gupta son of Satyaparkash Gupta and he is hand in glove with the local police, as a result of which the petitioner has been threatened and coerced into paying money not only to the police officials but also

accused in eight different FIRs registered by the Central Bureau of Investigation on charges of defrauding Punjab National Bank through various commercial entities and the petitioner has been named as an accused in one of these FIRs but is actually being treated as a witness. On account of this fact, said Deepak Gupta, in collusion with the local police is threatening the petitioner and his family so as to coerce them into not deposing against him. Reference has been made to various orders passed by the Special CBI Court at Delhi, remand applications moved by the local police at Sonapat and representations submitted by father of the petitioner to the Director General of Police, Haryana.

Accordingly, the prayer of the learned senior counsel is that the petitioner has been unnecessarily arrested and confined in jail. He is entitled to grant of bail. Keeping in view the facts and circumstances of this case, directions be also issued for investigation of the case either by the CBI or through a high powered investigation team. Directions be also issued to the State of Haryana to clean up the functioning of the police in districts neighbouring the National Capital Region as large number of such cases are being reported therefrom.

In response learned State counsel as well as counsel for the complainant submit that investigation is still in progress and, thus, the petition for grant of regular bail is premature. It is also submitted that there are seven other FIRs registered against the petitioner which shows that he is a habitual criminal and thus, not entitled to the discretionary relief of grant of regular bail.

The submission of the learned State counsel that there are seven other FIRs registered against the petitioner is vehemently objected to by learned senior counsel for the petitioner. He submits that apart from the instant FIR, the petitioner is named as an accused only in one other FIR which has been registered by the Central Bureau of Investigation against M/s Sri Hari Overseas Private Limited in which case the petitioner is being treated as a witness and not as an accused.

Learned State counsel is unable to respond to this specific assertion made on behalf of the petitioner.

From the contentions of learned counsel for the parties, it appears to me that as on date there is no evidence available with the police regarding any money having been received by the petitioner out of the amount invested by the complainant. Further, as per the documents of the complainant himself, no allegations have been made against the petitioner in relation to the concerned FIR. Thus, further incarceration of the petitioner appears to be unjustified.

Accordingly, the petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of Illaqa Judicial Magistrate/Duty Judicial Magistrate Sonapat.

Regarding the second limb of arguments of the learned senior counsel for the petitioner, orders shall be passed separately.

January 22, 2019
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[SUDHIR MITTAL]
JUDGE

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