IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.4786 of 2019
Decided on: 05.11.2019

Hari Dass Ghosh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. V.S. Chahal, Advocate for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

Mr. Amit Sharma, Advocate for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail under Section 438 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.0655 dated 28.12.2018 registered under Sections 406 of the Indian Penal Code, 1860 (in short 'IPC') (Sections 420, 506 and 120-B IPC added later) at Police Station Sector 5, Panchkula.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of the complainant – Ajaivir Singh Sehgal, partner of R.F. Technology, it is stated that the petitioner and the complainant entered into a partnership deed dated 01.04.2013 with an understanding that all the investment of the firm will be made by the complainant with a profit share of 60% of the complainant and 40% of the petitioner and an account in the name of the partnership firm was opened in the bank and the firm has received an order from the Ministry of Defence for execution of some work. It is stated that on execution of the work, the petitioner has received the

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payments in crores of rupees but had fraudulently siphoned off the investment in other account and has committed the offence of breach of trust and cause huge financial loss of Rs.10 crores to the complainant.

Counsel for the petitioner has further submitted that, in fact, it is a dispute arising out of a civil liability as admittedly, the petitioner and the complainant are the partners.

Counsel for the petitioner has also relied upon certain documents to show that the partnership firm was assigned work worth crores of rupees by the Ministry of Defence which was executed and the complainant has a right to recover the amount.

Counsel for the petitioner has further argued that the petitioner has not committed any offence as the No Due Certificate was received from one U.S. firm and the amount which was transferred by the complainant in his firm qua which he has procured an order and has made the payment to the U.S. firm.

In reply, counsel for the State assisted by counsel for the complainant has not disputed about the partnership between the petitioner and the complainant, however, it is argued that on receiving the amount from the complainant, the petitioner has caused huge financial loss running into crores of rupees by siphoning off the amount and has, thus, cheated and defrauded the complainant to the amount of Rs. 4,04,43,864/-. It is further stated that the records of the firm and the computers as well as the details of the account and the *modus operandi* adopted by the petitioner needs to be enquired into and therefore, the custodial interrogation of the petitioner is required.

Counsel for the complainant has further argued that, in

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fact, the complainant from his account has transferred huge amount in the account of the petitioner as it was agreed in the partnership deed that the investment will be made by the complainant. However, the petitioner instead of accounting for the amount in the partnership firm has siphoned off the same in some other accounts and has caused huge financial loss.

Counsel for the complainant has also placed on record the statement of his account in which on 20.05.2014, 75% payment was made to the tune of Rs.4,60,18,716/- in the personal account of the petitioner as well as the detail of the other amount which was also made by the complainant.

Counsel for the complainant has further argued that the petitioner after receiving the amount in his personal account instead of putting the said amount in the partnership firm has siphoned off the same and has, thus, committed the aforesaid offence.

After hearing the counsel for the parties and finding that there are direct allegations of cheating and breach of trust against the petitioner, the custodial interrogation of the petitioner is required to recover the account statement, computers of the firm as well as the other relevant documents and, therefore, I find no merit in the present petition and accordingly, the order dated 01.02.2019 granting interim bail to the petitioner is vacated and the present petition is dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

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Whether speaking/reasoned Yes/No

Whether reportable: Yes/No

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