

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

202

CRM-M-14139-2019 (O & M)
Date of Decision:24.05.2019

Anshoo Aggarwal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ravinder Hooda, Advocate for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

Mr. J.S. Bedi, Senior Advocate with
Mr. L.S. Chahal, Advocate
for the complainant.

MANOJ BAJAJ, J.(ORAL)

This petition has been filed by the petitioner under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.726 dated 10.10.2018 under Sections 120-B/406/420/467/471 IPC, registered at Police Station Sadar, Gurugarm. The petitioner apprehended his arrest at the hands of Police.

Learned counsel for the petitioner has invited the attention of the Court to the order dated 28.03.2019 whereby while issuing notice of motion to the respondent-State, the interim protection was extended to the petitioner. The said order reads as under:-

“Learned counsel for the petitioner contends that the petitioner had joined the complainant's company in the year 2008 and had continuously worked for a long

period of ten years. The FIR dated 10.10.2018 has been registered on the basis of complaint dated 03.05.2018 wherein it was alleged that the petitioner along with his co-accused, namely, Sanjay Mudgil (died in January, 2018) had prepared the vouchers and got payment through cheques which were signed by the petitioner as well as the complainant. According to prosecution, subsequently, the said payment was transferred in the account of the petitioner and his co-accused by the beneficiaries of the said cheques. Learned counsel for the petitioner further refers to his ailment and the communication dated 17.04.2018 allegedly addressed by the complainant to petitioner acknowledging the illness and asking him to join the company. According to the learned counsel, no grievance was raised by the beneficiaries of the cheques which were signed by the complainant as well as the petitioner.

Notice of motion for 12.04.2019.

At this stage, Mr. J.S.Bedi, Sr. Advocate with Mr. L.S. Chahal, Advocate appears on behalf of the complainant.

It is pointed out that the modus operandi of the petitioner was to get the chseque signed in favour of beneficiary on the strength of vouchers and subsequently the amount would come back to his own account. However, it is not disputed that the cheques which were signed by the petitioner were also counter-signed by the complainant-Rajesh Tara or other authorised signatory of the company who are not the accused.

Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of

Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner further contends that in deference to the said order, the petitioner submitted himself before the Police and joined the investigation. According to him, the petitioner cooperated with the Police Authorities during the investigation and furnished requisite bonds to the satisfaction of the Investigating Officer/Arresting Officer.

Learned State counsel on instructions from ASI Onkar Singh does not dispute this fact that the petitioner has joined the investigation. However, the prayer for grant of anticipatory bail is opposed and according to him, the custodial interrogation is required in the case.

Further the prayer is opposed by learned senior counsel appearing on behalf of the complainant. He has pointed out that in fact the accused-Anshoo Aggarwal used to get the general voucher prepared for payment of taxes to concerned department and would change the same subsequently on the ground of tax exemption. According to him, after preparation of the voucher, the payment used to be sanctioned under the signatures of the accused as well as the complainant, but would later on the said voucher used to be changed by accused. According to him, there were agents namely Bhupender Singh Lathwal and Vinit etc. employed by the complainant, who used to make the payment to the various tax departments and the approved payment used to be credited into their accounts. It is vehemently contended that after receipt of the payment by the agents, the same used to reach the petitioner-accused.

At this stage, to a pointed query posed by the Court, learned State counsel has apprised that the beneficiaries of the cheque (agents) are not arraigned as an accused but are the prosecution witnesses.

In view of the above, it is apparent that the entire case of the prosecution is based on documentary material and, therefore, this Court is of the opinion that the custodial interrogation of the petitioner may not be necessary.

Considering above, the petition is allowed and the interim bail granted by this Court vide order dated 28.03.2019 is made absolute. However, it is made clear that this order shall remain operative till the filing of the final report under Section 173 (2) Cr.P.C.

The petition stands allowed.

24.05.2019

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No