IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-45238 of 2019
Date of Decision: 20.12.2019

Sandeep Kumar Kewalramani

....Petitioner

VERSUS

State of Haryana ....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. J.S. Bedi, Sr. Advocate
with Mr. Rubal Garg, Advocate
for the petitioner.

Ms. Dimple Jain, A.A.G. Haryana.

Mr. Gagandeep Singh, Advocate
for Mr. Aashish Chopra, Advocate
with Ms. Kamal Kant Yadav, wife of the complainant.

****

SURINDER GUPTA, J.

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.63 dated 07.02.2019 registered for offences punishable under Sections 120-B, 406, 420, 467, 468 and 471 of Indian Penal Code (for short, "IPC") at Police Station Sector 50, Gurugram (Economic Offence Wing).

Heard.

As per allegations in the FIR, petitioner alongwith Harish Kumar Sinha was share-holder and director of the company M/s Bel Espirit Technologies Pvt.Ltd. (hereinafter referred to as 'BETPL'). This company was engaged in trade of IT products such as power-banks, speakers and charging cables etc. Manish Kumar Sinha was also director of 'BETPL' and Praphul Kumar was close friend and associate of S.K. Kewalramani. Under a criminal conspiracy hatched by aforementioned accused, Praphul Kumar approached the complainant and his wife in May, 2015 and represented that 'BETPL', a startup company had done well and achieved and exceeded all targets. To expand the clientage, S.K. Kewalramani (petitioner), Harish Kumar Sinha and Manish Kumar Sinha were offering equity in 'BETPL' in exchange for an investment of ₹2 crores. He assured that this will be a lifetime opportunity for the complainant and his wife and they will earn a lot by investing within two years. On his assurance that it would be a risk free investment as he knew the petitioner and other directors of 'BETPL' , complainant agreed to meet them. A meeting was arranged at the house of complainant in Sector 51, Samaspur, Gurugram. In the meeting, turn over of 'BETPL' was projected as ₹2.6 crores and the market value of the company as about 26 crores. They projected their annual turn over as ₹5 crores and also showed forged and fabricated documents like profit and loss statement, books of account of the company, balance-sheet etc. to make them believe their false representation. They asked the complainant to invest ₹2 crores but the complainant showed interest only to invest ₹1.75 crores for a period of one year, at which they were assured monthly return of 3% payable at the end of one year. They also represented that complainant will be made Additional Director in 'BETPL' and transferred 20% equity. The investment of ₹1.75 crores was made and the complainant was shown as additional director as per resolution dated 15.06.2015. 20% shares of 'BETPL' were not transferred despite insistence of wife of the complainant on one excuse or the other. In April, 2016, it was presented that 'BETPL' was doing excellent business and they require more investment and offered 5% return on the investment made by the complainant at which they agreed to invest another amount of ₹1.75 crores. Some payments were also made to complainant by the aforesaid accused to show their *bona fide*. In all payment of ₹1,14,39,000/- was made to complainant, when they threatened to go to the police and report the cheating with them. Thereafter, they stopped making any payment. Wife of the complainant got suspicious and enquired as to where accused have invested the money and when will they return their entire amount. On their insistence, in the meeting on 13.11.2017, it was decided by the petitioner that henceforth he will appoint the complainant as authorized/joint signatory of all the bank accounts of 'BETPL' and all the transactions over and above ₹45000/- shall require his consent. He assured return of the payment made by complainant and his wife on priority basis. Thereafter, the petitioner asked for personal documents, such as, PAN card, Aadhaar card, passport of complainant etc., which were given to him. He also assured that he will transfer share-holdings of Harish Kumar Sinha in the name of wife of the complainant as security, which were transferred in January, 2018. The complainant took assistance of one Amit Jain to know the affairs of 'BETPL' and demanded the book of accounts, bank statement, inventory of stock, liability of the company etc. from accused, which were not supplied. Thereafter, petitioner first absented from the office of 'BETPL' and finally stopped its operation. On insistence, he met complainant on 19.05.2018 and offered to hand over management and shares of 'BETPL' to someone nominated by the complainant, who agreed to the proposal as he was told that company is worth crores of rupees. The petitioner was, however, asked to disclose all the assets and liabilities of 'BETPL' in writing to which he did not agree on the pretext that balance-sheet of 'BETPL' had not been prepared by their chartered accountant. On 22.05.2018, he sent a MOU whereby he absolved himself of all the liabilities of 'BETPL'. He again sent MOU on 23.05.2018 without financials of 'BETPL'. The complainant was shocked to find that 'BETPL' had 11 bank loans at that point of time.

The petitioner was arrested on 03.08.2019 and after completion of investigation challan against him has been presented in Court.

Learned counsel for the petitioner submits that business transactions have been given shape of criminal offence. The petitioner had been apprising the complainant from time to time about status of the business of 'BETPL', its stock inventory and financial statements. The share-holdings of the company were also transferred in the name of wife of complainant as per resolution (Annexure P-9). It was an investment in the company and not a deal to have returns. Stock of the company worth ₹1.53 crores is still lying as per statement supplied by the complainant during investigation. They have also received ₹1 .2 crores under the settlement with other accused, as such, money invested by the complainant is quite safe.

Learned counsel for the complainant and learned State counsel submit that it is a case where the complainant and his wife, who are pilots by profession, have invested their entire life earning in the company being run by the petitioner. Both complainant and his wife are pilots and never had any intention to be directors of 'BETPL'. Petitioner after receiving huge amount from complainant set up a separate company and transferred stock of 'BETPL' to that company, thereby played fraud. He also took loan from different banks under the fake signatures of complainant. Wife of the petitioner, who is also accused, is absconding. Other accused are yet to be arrested. Complainant was made additional director of 'BETPL' for a short period from 15.06.2015 to 03.09.2015. Petitioner had withdrawn ₹1 crore from account of the company and misappropriated that amount. He has not only forged signatures of the complainant but also forged signatures of his brother-in-law on cheques. He has not come up with any explanation as to what was the need for him to start another company and siphoned of the stock of 'BETPL', when this startup, as alleged by him, was doing well. He has all record of 'BETPL' in soft copy on computer and laptop, which he may tamper, if released on bail and will also prevail upon prosecution witnesses.

On going through paper-book, record and documents, I find that it is a case where complainant and his wife, who are novice to business tactics, have been duped . Though, petitioner tried to project it a case of business dealings but it appears to be a case of planned cheating as the loans were also taken from various banks under the forged signatures of complainant and the police has also found during investigation that petitioner has not only forged signatures of his brother-in-law but also of complainant and played fraud with different banks from where the loans were taken. After presentation of challan, case is at initial stage. Statement of complainant and his wife are yet to be recorded. Allowing of bail to petitioner, at this stage, will allow him opportunity to prevail upon the prosecution witnesses and tamper with its evidence.

Keeping in view seriousness of the offence and above facts, I find no reason to extend the benefit of regular bail to petitioner at this stage.

Dismissed.

December 20, 2019 **(SURINDER GUPTA)**
jk **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No