IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.14355 of 2020 (O&M)

Date of Decision: 04.09.2020

Rajiv Kumar

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. R.S. Rai, Senior Advocate assisted by
Mr. A.S. Lamba, Advocate for the petitioner.

Mr. Pardeep Prakash Chahar, Deputy Advocate General, Haryana for the respondent.

Mr. Charanjit Sharma, Advocate for the complainant.

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MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial to the petitioner in FIR No.358 dated 08.09.2018, under Sections 420, 406, 467, 468, 471, 120-B of the Indian Penal Code, 1860 *(for short 'IPC')*; Sections 4, 5, 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 *(for short '1978 Act')* and Section 3(2) of the Haryana Protection of Interest of Depositors (in Financial Establishment) Act, 2013 *(for short '2013 Act')*, registered at Police Station Sadar Fatehabad, District Fatehabad.

2) Allegations against the present petitioner are that he being one of the promoters of Future Maker Life Care Pvt. Ltd. *(hereinafter referred as 'Future Maker Company')*, having its Head Office at D.S.S. 45, Red Square

Market, Hisar (Haryana), duped large number of persons to the tune of more than ₹ 2956 Crores.

Above FIR was registered on the basis of written complaint made by one Anil Sihag to the effect that Future Maker Company has appointed various agents throughout country for selling its products and collected crores of rupees in cash by inducing innocent persons, thereby causing loss of tax to the Government running into crores of rupees. Innocent persons are persuaded to invest with this Chit Fund Company and instead of investing the collected amount, the Future Maker Company indulges in illegal business activities worth crores of rupees on daily basis. The Future Maker Company is neither having any product; nor any manufacturing unit; rather it has tie-up with other Companies and it does not purchase any goods. The transactions are limited only to papers, which are totally bogus and frivolous. The Future Maker Company receives approximately ₹ 10 crores in cash daily from its agents at Hisar Office without issuing any receipt and throughout the Country, approximately ₹ 40 crores are collected daily by the Company. Upon receipt of cash amount from its agents, Future Maker Company issues bills for the products after taking IDs, but no product is supplied to them and only the profit is passed on to the agents on the basis of fictitious bills. The Future Maker Company, after receiving the amount in cash from agents, issues the bill of its products @ ₹ 7500/- per ID and remits the money into their bank accounts as commission.

For an example, if someone deposits ₹ 2,52,000/- in cash, after 15 days, the Future Maker Company upon taking ID of other person, issues different bills of the products and induces such person that an amount of ₹ 5

Lakh would be deposited in his bank account after a period of 24 months. The Future Maker Company is not paying any income tax and it issues half the actual number of bills only. Although, the Future Maker Company is having one Office at Village Dhangar, but there is no product and only by taking the IDs from the agents, general public is misled.

3) Contends that petitioner is in custody since 19.09.2019 and after investigation in the matter, challan qua him has already been presented on 20.11.2019 (P-2), but charges are yet to be framed. Further contends that petitioner is neither the promoter; nor Director of the Future Maker Company, rather he was running two Companies, namely, Virat Bazaar Pvt. Ltd. & White Resolution Pvt. Ltd. and used to supply material i.e. *ayurvedic* medicines to the Future Maker Company; sale/purchase were duly reflected in the record of the above two Companies and even Goods & Services Tax *(for short 'GST')* was also paid. Further contends that police have intentionally victimized the petitioner while raising the doubt about the functioning of his above two Companies and moreover, on account of the Covid-19 pandemic, trial is likely to take sufficient long time, thus, further incarceration of the petitioner would not serve any purpose.

On the other hand, learned State Counsel opposed the prayer while submitting that petitioner fabricated the documents to show the supply of goods by his two Companies for misappropriation of the money siphoned off from Future Maker Company. Also submitted that petitioner in conspiracy with the main accused i.e. Bansi Lal, MD, swindled an amount of ₹ 46 Crores received from the Future Maker Company, which is duly proved from his bank accounts and also purchased immovable properties in his name as well as his wife-Pooja. Further submitted that there are total 28 FIRs registered against the Future Maker Company in different States and petitioner actively participated in the scam as a facilitator. Again submitted that as a matter of fact, Future Maker Company is having no product, but running Chit Fund activities throughout the country leading to the evasion of income tax running into crores of rupees and even an amount of ₹ 398 Crores is due on account of non-payment of the GST. Also submitted that investigation in the matter is still going on and out of total 31 accused, 10 are evading the arrest despite non-bailable warrants issued against them. Lastly submitted that prosecution is making best efforts for bringing all the accused to justice and in case petitioner is released on bail, he is most likely to hamper the pending investigation.

Learned Counsel for the complainant supported the pleas raised on behalf of the State while submitting that petitioner has played an active role in the commission of present fraud against the large number of victims throughout the country by projecting that the Future Maker Company used to purchase the products from his two Companies, which actually do not exist. Also submitted that co-accused, who are yet to be arrested, openly claiming through social media, including Whatsapp that all the accused are likely to come out very soon after getting clean chit and they will resume their business as usual.

4) Heard learned Counsel for the parties and perused the paper-book.

5) At the outset, it is necessary to mention here that apart from the crime, mentioned above, there are 27 other FIRs registered against the Future Maker Company as well as beneficiaries, who conspired for commission of the present scam spread in various States i.e. Haryana, Telangana, Rajasthan, Madhya Pradesh, Andhra Pradesh, Jharkhand, Uttar Pradesh and Maharashtra.

6) Record reveals that Future Maker Company was incorporated on 26.02.2015 with total share capital of ₹ 10 Lakh by two co-accused, namely, Radhey Shyam and Bansi Lal in equal share. As per Article of Association, the main objects of the Company are as under:-

> ***"1.*** *"To do the business as trading, buyers, sellers, stockiest, retailers, wholesalers, suppliers, distributors, marketing, advertisement or otherwise deal in electronic items, general use items, Fast moving consumer goods, fabrics, health, life care products, Spices, Tea and all other kinds of goods and services and general use items on direct selling basis or selling through Network Marketing, online shopping and Network Business.*
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> ***2.*** *To carry on all type of selling and purchasing activities directly or indirectly (both in internal and external markets on its own or as sales, purchase or commission, agents and brokers), to act as Service Agents for providing services, after sales and other technical services, to carry on business as marketing, technical consultants both in internal and external markets.*
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> ***3.*** *To act as selling agents, sales organizers as well as consultants, agents and advisors in all the respective branches, to appoint advisors and to open branches and in such capacity to give advice and information and render services to persons, firm, company or body incorporate or authority or government which may be given or rendered while carrying in such business as aforesaid.*
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> ***4.*** *To carry out market research, launch advertisement campaign, and to do all such things as may be necessary for the promotion of sales of any products or article."*

7) Prosecution collected the information that there are total 14 chief ID promoters and 100 main promoters, whereas present petitioner is the promoter of the Future Maker Company. During investigation, police found that petitioner was owner of two Companies, namely, White Resolution Pvt. Ltd. & Virat Bazaar Pvt. Ltd. and projected that the Future Maker Company used to purchase goods from both these Companies. Police, after verification about the working of White Resolution Pvt. Ltd., found that there was no such Company in existence at its official address i.e. Sarojini Colony, Phase-1, Shop Nos.5-6, Yamuna Nagar. Petitioner also tried to show that White Resolution Company used to purchase material from one Immortal Biotech Pvt. Ltd., Sonepat, but after investigation, it surfaced that Immortal Biotech Pvt. Ltd., Sonepat was not manufacturing any such products as claimed by the petitioner. Police also found that petitioner in collusion with co-accused Bansi Lal (MD of Future Maker Company) opened Virat Bazaar Pvt Ltd. at Karnal in the year 2015, but it did not work till 2017 and it was again started in the year 2018 with sole motive to swindle the huge money accumulated by Future Maker Company while inducting Prem Kumar (brother of M.D. Bansi Lal) as Director in his Company-Virat Bazar. Petitioner also purchased properties worth crores of rupees in the name of Virat Bazaar Pvt. Ltd. and his wife-Pooja. Petitioner also purchased Gaytri Industries in Solan (H.P.) for ₹ 2 Crores and opened one Showroom of Harley Davidson Motorcycles under the name & style of 'Yuvam Commando Motorcycle Agency' in Hisar after spending about ₹ 1 Crore, but out of total 24 motorcycles after selling 06, closed the business and returned remaining 18 motorcycles to Harley Davidson Company at Okhla, Delhi.

8) On 20.09.2019, petitioner joined the investigation; suffered disclosure statement by stating that he was working as an Astrologer in Karnal; started two Companies, namely, Virat Bazaar Private Limited & White Resolution Pvt. Ltd., which were later on closed due to no work. Also disclosed that he had old relations with main accused-Bansi Lal (MD), who asked the petitioner that he along with co-accused Radhey Shyam have opened the Future Maker Company in Hisar. Further disclosed that Bansi Lal asked the petitioner to join them by re-starting the aforesaid two Companies and reflect the sale/purchase of products. Again disclosed about the fraud committed by the petitioner in connivance with other co-accused; his bank accounts and purchase of various properties in the name of his Company i.e. Virat Bazaar being its Director as well as his wife-Pooja.

Bank officials produced the record pertaining to the bank accounts of the aforesaid two Companies of the petitioner, wherein money was received from the Future Maker Company and which are as under:-

Sr. No.	***Account Number***	***Credit in ₹***	***Balance in ₹***
1	*0351102000003513 (Virat Bazaar Pvt. Ltd.)*	*40 Crores (approx.)*	*1,28,566*
2	*0351102000003612 (White Resolution Pvt. Ltd.)*	*06 Crores (approx.)*	*2450*

It is noteworthy that after associating with the Future Maker Company, petitioner purchased various immovable properties for himself being Director of Virat Bazaar Pvt. Ltd. and his wife-Pooja without disclosing any other source of income except the amount received from the Future Maker Company and details of which are as under:-

Sr. No.	***Name of owner of the property***	***Description of Property***	***Year***
1	*Virat Bazaar Pvt. Ltd., Director Rajiv Sharma (Petitioner)*	*Registry No.285 dated 01.08.2018, Gayatri Industries, Jhadmajri, Baddi, Solan (H.P.)*	*2017-2018*

2	*Virat Bazar Pvt. Ltd. Director Rajiv Sharma (Petitioner)*	*20 Acre 3 Kanal 11 Marla land, Rampur Gainda Bilaspur, Yamunagar vide Registry No.1478 dated 13.11.2018;* *1 acre 1 Kanal 12.6 Mala land, Rampur Gainda Bilaspur, Yamunanagar, vide Registry No.1479 dated 13.11.2018*	*2018-2019*
3.	*Pooja wife of Rajiv Kumar (petitioner)*	***1.*** *6 Kanal land of Samanabahu Karnal NH-1, GT Road Delhi-Chd. vide Registry No.1256 dated 19.09.2018;* ***2*** *12 Kanal 12 Marla land of Samanabahu Karnal NH-1 GT Road Delhi-Chd, vide Registry No.1257 dated 19.09.2018;* ***3.*** *5 Kanal 8 Marla land of Samanabahu Karnal NH-1 GT Road, Delhi-CHD vide Registry No.1258 dated 19.09.2018*	*2018-2019*
4	*Pooja wife of Rajiv Kumar (petitioner)*	*Registry No.5173 dated 24.08.2017 house 385 square feet, Holi Mohalla, Karnal*	*2017-2018*

During investigation, statement of Pranjil Batra, Software Engineer of the Future Maker Company was recorded under Section 161 Cr.P.C. to the effect that within a period of three years, the Future Maker Company collected an amount of ₹ 29,56,91,96,250/- from the depositors and out of that, ₹ 1904 Crores have been verified as per record, but remaining amount of ₹ 1053 Crores are yet to be accounted for. It is necessary to observe that Future Maker Company did not obtain any license from the Reserve Bank of India for getting the deposits of such a huge amount and thus, could be a big threat to the financial market in the country. Even factum of online selling of products at the instance of the Future Maker Company was verified by the prosecution from the list of Direct Selling Entities, maintained by the Ministry of Consumer Affairs and Direct Selling Association (FDSA) for Multilevel Marketing (Direct Selling), but name of the Future Maker Company nowhere exists, thus, the ploy of direct selling is only on papers just to swindle the huge amount collected from the depositors by illegal means to wriggle out from the requirement of registration with the RBI under Section 45-1A of the Reserve Bank of India Act, 1934.

Inspector Sanjay Kumar, O/o CGST, Hisar was joined during investigation and he disclosed that an amount of ₹ 3,98,38,81,593/- was due against the Future Maker Company on account of non-payment of GST as on 03.04.2019.

Co-accused Bansi Lal, M.D. of the Future Maker Company and his brother-Prem made disclosures during investigation regarding the complicity of the petitioner while stating that they worked with the petitioner for misappropriation of money of the Future Maker Company.

9) As on today, investigation is pending with the SIT, headed by an IPS Officer and out of total 31 accused, 21 have been arrested. During the course of hearing, this Court was apprised that despite repeated non-bailable warrants, remaining 10 co-accused are still evading the arrest and again their warrants of arrest have been issued for 25.09.2020.

Since investigation in the matter is being delayed by the co-accused and thus, the petitioner cannot take any benefit of the same. Consequently, the argument that incarceration of the petitioner is being prolonged due to Covid-19 pandemic is without any substance and liable to be rejected.

Police-papers reveal that petitioner received an amount of more than ₹ 46 Crores from the Future Maker Company through bank accounts of his two Companies and purchased immovable properties, thus, played an active part in commission of the offence and as such, the contention that he has no role in the matter is also liable to be rejected.

10) It is astonishing that within a period of three years of incorporation of the Future Maker Company with mere share capital of ₹ 10 Lakh, accused have accumulated an amount of more than ₹ 2956 Crores through illegal means under the garb of selling non-existent products and as such, proper investigation would be required to find out the truth.

11) As discussed above, investigation is still going on and out of total 31 accused, 10 are yet to be arrested and they are openly in league with the petitioner as well as other co-accused, who are in custody, while circulating the misleading information through social media including Whatsapp group to the effect that all are going to be released from custody very soon upon getting clean chit from the Court and as such, misguiding the victims with sole motive that the depositors may not come forward to co-operate with the ongoing investigation.

12) No doubt, present case is triable by the Magistrate, but at the same time, it is relevant to take note of the fact that apart from the present case, there are other 27 FIRs pending in different parts of the country against the Future Maker Company as well as other accused.

Petitioner seems to have forged and fabricated the documents to show sale/purchase with the Future Maker Company and in conspiracy with the main accused, swindled an amount of ₹ 46 Crores of the Future Maker Company, which is duly reflected in his bank accounts. Petitioner also purchased immovable properties for himself being Director of Virat Bazaar Pvt. Ltd. and his wife-Pooja. There is sufficient material which indicate that petitioner is deeply involved with the syndicate for leading to the alleged fraud of more than ₹ 2956 crores, thus, it clearly seems that he is a beneficiary of the scam. During investigation, petitioner was not able to produce any record regarding the supply of *ayurvedic* medicines to the Future Maker Company and thus, the ploy of showing payment of GST and Toll Plaza Receipts transpires not only as camouflage, but covin to gulp the huge amount received from the Future Maker Company in conspiracy with Bansi Lal, MD of Future Maker Company and his brother-Prem Kumar.

In view of the discussions, made hereinabove, this Court is satisfied that release of the petitioner on bail at this stage would be detrimental to the pending investigation and likely to cause serious prejudice to the case of prosecution.

Thus, taking into consideration the huge financial bungling as well as pendency of investigation against remaining 10 co-accused and to safeguard the interest of large number of victims, this Court is not inclined to grant the concession of bail to the petitioner.

As a result thereof, there is no option except to dismiss the present petition.

Ordered accordingly.

The above observations may not be construed as an expression of opinion on merits of the case.

September 4th, 2020 **(MAHABIR SINGH SINDHU)**
JUDGE

Gagan

Whether speaking/reasoned	*Yes*
Whether Reportable	*Yes*