

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M No.21039 of 2020 (O&M)
Date of Decision.30.07.2020

Sandeep Kumar		...Petitioner
	Vs	
State of Haryana		...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sanjeev Kumar, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

Mr. Jagan Nath Bhandari, Advocate
for the complainant.

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JAISHREE THAKUR J. (ORAL)

1. The instant petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.283 dated 01.07.2020 registered under Section 177, 409 and 420 IPC at Police Station Ambala Cantt., District Ambala.

2. Brief facts of the case, as per the complaint lodged by the partner of M/s Shree Sai Facilities which is a partnership Firm, are that the said Firm is engaged in various types of contract awarded by the Northern Railway for the purpose of housekeeping, mechanized cleaning of railway stations, coaches and wagons etc. The complainant Firm appointed Sandeep Kumar i.e the petitioner herein to take care of works of the Firm at Ferozpur Division of Northern Railways in terms of various contracts executed between the complainant-Firm and the railways. However, the petitioner in connivance with railway officials of Ferozpur Railway Divisions created a new proprietorship firm in identical name of the complainant Firm i.e. M/s Shree Sai Facilities by using his PAN number and other documents and also opened

a fake bank account bearing No.3989002100007395 in Punjab National Bank in the name of M/s Shree Sai Facilities. He projected himself as proprietor of M/s Shree Sai Facilities. The petitioner herein in connivance with some railway officials used to get credited heavy amount in the said account number by producing false and forged bills to the concerned railway authorities with regard to work to which the complainant Firm had no connection at all. The complainant Firm in good faith used to give blank signed cheques to the petitioner for the purpose of making payment to the labour and for execution of contracts and their management. However, the petitioner herein misused said cheques and illegally withdrew an amount of Rs.6,15,665/- from current account of the Firm with Axis Bank. On enquiry, it was found that the said deductions were made account of payment of some credit cards which were issued in the name of family members of Sandeep Kumar-petitioner.

3. Learned counsel for the petitioner herein contends that the petitioner was not an employee of the complainant Firm rather special power of attorneys were executed in the name of the petitioner for doing certain works in terms of the contract awarded to the complainant-Firm, which reflects that the petitioner was an authorized agent of the complainant-Firm and thus, being an authorized agent, he opened the bank account on the basis of authority letter given by the Firm. It is further contended that at the most it is a civil dispute and therefore, offence of cheating does not arise because there was an oral agreement between the petitioner and firm to make payment in percentage of work done. Later on, the complainant denied to make payment to the petitioner and lodged this false FIR. The authenticity of bills alleged to be fake by the complainant is a matter of evidence, which can be

dealt with by the appropriate court being a matter of trial. The petitioner is ready to join and cooperate with the investigation and therefore, prays for anticipatory bail.

4. Learned counsel appearing on behalf of the respondent-State and the complainant contend that on the basis of allegations levelled by the complainant-Firm, an independent enquiry was conducted by the Railway Department and recommended certain action against various officials of the department. The petitioner has committed a fraud and embezzled huge public money, therefore, his custodial interrogation is required.

5. I have heard learned counsel for the parties.

6. It is conceded position that the Railways Department has initiated enquiry on the basis of allegations levelled against the petitioner and the officials of the Railway and *prima facie*, finding substance in the allegations recommended certain actions to be taken against the officials of the Railways alleged to be involved. It is not the case that the petitioner was named in the FIR merely on the basis of allegations levelled against him by the complainant Firm. The FIR itself has been lodged after conducting a preliminary enquiry. It is a scam involving huge public money, which is to be unearthed and therefore, custodial interrogation of the petitioner is required. No ground is made out for grant of anticipatory bail.

7. Consequently, the instant petition is dismissed.

(JAISHREE THAKUR)
JUDGE

July 30, 2020

Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No