

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 21280 of 2020 (O&M)

Date of decision : 26.8.2020

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Som Nath

.....Petitioner

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr Jagvinder Singh Santwal, Advocate for the petitioner.

Mr. Randhir Thind, Deputy Advocate General, Punjab.

Mr. Vikas Arora, Advocate for the complainant.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been filed by petitioner Som Nath, aged about 45 years son of Ram Bhaj, resident of village Kotla Power House, Tehsil Anandpur Sahib, District Rup Nagar, an accused in FIR No. 104 dated 15.7.2020, for offences under Sections 420, 406 IPC, registered at Police Station, Sri Anandpur Sahib, District Rup Nagar.

Briefly stated, facts of the case, as per the prosecution story are that the FIR in this case was registered on the basis of written complaint submitted by complainant Sunder Kumar s/o Sita Ram, resident of village Kotla Power House, Tehsil Sri Anandpur Sahib, District Rup Nagar, to the police. Inter alia in the complaint, the

complainant contended that he is an Ex–Army personnel and the accused belonging to his village contacted him stating that he was an agent of Global Retail Multi Trade Private Limited Company. The complainant was taken by his talks and handed over to him Rs.5 lacs on 6.6.2012 and Rs.3 lacs on 11.6.2012. Som Nath filled up deposit form of the bank with his own hands and deposited the money with the bank handing over receipt to the complainant. After about 4-5 months, the complainant enquired from accused as to why he had not received the stock to which he replied that concerned person was not picking up his phone, as such the complainant took Som Nath to Indore, Madhya Pradesh but did not find anything there. The complainant had been suffering from various ailments and could not travel much. He had executed a Power of Attorney in the name of Som Nath – accused, pertaining to one plot measuring 4000 sq. ft. at Indore. After sale of the plot, the money was to be given to Sunder Lal. Som Nath had handed over a cheque bearing No. 010478 dated 1.11.2012 for a sum of Rs.8,45,300/- to the complainant but validity period of that cheque had expired, as such that cheque could not be presented before the bank by the complainant. According to the complainant, he asked Som Nath to return his money, but to no effect, rather he started threatening the complainant. The complainant submitted a complaint to the police. The matter was enquired into and the police found that Som Nath had cheated the complainant. Som Nath also admitted the liability. A compromise was arrived at on 4.3.2020 at the Police Station. Som Nath had admitted his liability to

return Rs.8 lacs to the complainant and promised to give 7 cheques for Rs. 1 lac each and Rs. 1 lac in cash. Subsequently, he stated that he would give another cheque of Rs. 1 lac, in lieu of cash amount. In that way he had given 8 cheques for a sum of Rs. 1 lac each, starting from 12.3.2020 to 12.10.2020. However, on presentation, 3 cheques got bounced and as per bank memo, the payment had been stopped due to loss of cheque book. The complainant came to know that the cheques had been issued from joint bank account of Som Nath and his wife and both of them used to do transactions with Global Retail Multi Trade Private Limited Company. According to the complainant he had been cheated by the accused of Rs.8,45,300/-. On the basis of such complaint, formal FIR had been registered.

Apprehending their arrest, Som Nath and his wife, who happen to be his co-accused in this case, namely, Rajwinder Kaur, had filed a petition for grant of pre-arrest bail before the Court of Sessions at Rup Nagar. That petition came up for hearing before Additional Sessions Judge, Rup Nagar, who vide order dated 23.7.2020, accepted the application as regards Rajwinder Kaur, granting her anticipatory bail, whereas, it was dismissed with regard to Som Nath.

Som Nath felt aggrieved and has knocked at the door of this Court, craving for grant of that very relief, which request is being opposed by the State counsel.

I have heard learned counsel for the petitioner, learned State counsel, assisted by learned counsel for the complainant,

besides going through the record.

In this case, the petitioner is specifically named in the FIR and there are grave and serious allegations of cheating and fraud against him. Out of 8 cheques issued by him in favour of the complainant, 3 of those, on presentation, were dishonoured, since the petitioner had stopped the payment, informing the bank that cheque book had been lost. Of course he tried to be over clever in the matter. The Civil suit filed by him in that regard, copy of the plaint being available on the file, as Annexure P-3, goes to show that he is trying to act smart, since as per the prosecution story, which appears to be natural and probable, petitioner accused himself had issued the cheques. Though later on he started claiming that he did so under the police pressure but those allegations do not came out to be convincing. If the petitioner do not have liability towards the complainant, then where was the necessity for him to issue the cheques in his favour. Specific case of the prosecution is that it was the accused who had received the money from the complainant. It being so, he is to account for such money to the complainant, which he stated to have received on allurement of running joint business with the complainant.

The custodial interrogation of the petitioner is definitely required to affect the recovery of the money from him and for complete and effective investigation. In case the custodial interrogation is denied to the Investigating Agency, that shall adversely affect the investigation, leaving many loose ends and

loopholes, which is uncalled for.

Therefore, finding no merit in the petition, the same stands dismissed.

However, nothing discussed above shall have any bearing on the merits of the case.

26.8.2020
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No