IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 22012 of 2020 (O&M)
Date of decision : 26.8.2020

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Sukhchain Kumar
................Petitioner

vs.

State of Haryana
.................Respondent

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

Present: Mr. Kartik Sandal, Advocate for the petitioner.

Mr. Tanuj Sharma, Assistant Advocate General, Haryana.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This second petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been filed by petitioner Sukhchain Kumar, aged about 31 years son of Dharamn Chand, resident of village Sangha, Tehsil Sardhulgarh, District Mansa, an accused in FIR No. 1035 dated 14.10.2018, for offences under Sections 120-B, 406 & 420 IPC and Sections 4, 5 and 6 of Prize Chit and Money Circulation Schemes (Banning) Act, 1978, registered at Police Station, Sirsa City.

Briefly stated, facts of the case, as per the prosecution story are that the FIR in question was registered on the basis of written complaint submitted by complainant Santro Devi w/o Rajesh Kumar, resident of Fatehabad, to the police, wherein she contended that she had collected some money as a result of small savings. On inducement given by agent of the company she got registered with Wealthway Company on 14.6.2018. She was given assurance that she would receive products worth Rs.52,700/- and thereafter Rs.17,000/- per week for 24 weeks, the total amount coming to Rs.4,08,000/-. However, no products were given, except for Rs.34,877/- deposited in her account. She prayed for taking action in the matter and getting her amount recovered.

The petitioner-accused was nominated in this case. Apprehending his arrest, he had moved the Court of Sessions at Sirsa, seeking pre-arrest bail. However, his such petition was dismissed by learned Sessions Judge, Sirsa, vide order dated 26.2.2019. The observations made in para No. 2 and 4 are very relevant and are being reproduced as under :-

> " 2. It has been objected by Public Prosecutor assisted by counsel for complainant. He places on file as list of as many as 23 persons who have been cheated by him (petitioner-accused). He says that nothing has been paid to them or complainant. He says he had made a promise before this Court. So he is not entitled to any relief like anticipatory bail.
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> 3. XXXXX XXXX XXXXX

4. Petitioner had been running Wealth Way Chit Fund Company. He had been collecting funds from residents of area with a promise to give higher returns but failed to pay anything, even principal amount. So, present case was registered against him. On the last date, he had agreed to pay their amount to various complainants but failed. Affidavit of petitioner placed on file is of no use because same is regarding liability of petitioner and other partners to pay amount to the investors. In such situation, he is not entitled to the extraordinary relief of anticipatory bail. So his application for anticipatory bail is rejected. File be consigned to records after due compliance."

The accused-petitioner had filed an application for pre-arrest bail before this Court earlier, which was allotted CRM-M-11202-2019 (O&M), and vide order dated 13.1.2020, the same was dismissed as withdrawn, since learned counsel for the petitioner had sought permission to withdraw the said petition.

Now, he has approached this Court again by filing the second petition, which is not maintainable.

Nevertheless, if seen on the touchstone of merits also, the petition is bound to fail. The allegations against the petitioner are very grave and serious of cheating innocent people giving them allurement of big returns. As stated by the Public Prosecutor and noticed in the order passed by learned Sessions Judge, 23 other persons have been cheated by the petitioner and the fraud amount running into about Rs. 1 crore. In the written reply filed on behalf of the State, the details of the other victims, who have statedly filed separate complaints against the accused-petitioner have been given running into 21 and the fraud amount is amounting to Rs.1,00,96,500/-. In that way, the petitioner comes to be a big fraudster, playing fraud with innocent persons.

The pre-arrest bail is not be granted in routine but in exceptional circumstances. It is well settled that custodial interrogation is more elicitation oriented since a person who is couched in comparative safety of pre-arrest bail, would certainly not disclose all the facts within his knowledge, which would be inculpatory for him.

The custodial interrogation of the petitioner is required for complete and effective investigation, for the purpose of recovery of the amount, which he had received from the victims. 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.

It is well settled law that pre-arrest bail is a discretionary relief and which is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and any inconvenience and not to shield the culprits from custodial interrogation.

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.

(H.S. Madaan)
26.8.2020 **Judge**
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Whether speaking / reasoned Yes / No

Whether reportable Yes / No