205 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-24974 of 2020 (O&M)
Date of Decision : 11.09.2020

Kulwinder Pal Singh ...Petitioner

Versus

State of Punjab ...Respondent

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Jagdeep Bains, Advocate and
Mr. Tahaf Bains, Advocate for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

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Harsimran Singh Sethi, J. (Oral)
CRM-22875 of 2020

As prayed for, application is allowed.

CRM-M-24974 of 2020

Reply filed by the learned State counsel is taken on record.

The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail to the petitioner in respect of FIR No.58 dated 17.05.2019 under Sections 408,409,419,420,465,467,468,471 and 120-B of IPC registered at Police Station Sultanwind, District Amritsar.

Learned counsel for the petitioner argues that the petitioner has wrongly been roped in with regard to the allegations made in the present FIR as all the acts of forgery and illegal withdrawal and deposit of the amount in the accounts of the various account holders was done by

Magwinder Singh, Secretary, Cooperative Society, Sultanwind. Learned counsel for the petitioner further argues that the petitioner has no role to play in the withdrawal of the amount from the account of account holders as the said acts are only attributable to the Secretary, Magwinder Singh and the petitioner has wrongly been accused of the said allegations of conniving with co-accused Magwinder Singh. Learned counsel for the petitioner further argues that the record, which has been appended with the present petition shows that the petitioner performed his duties in accordance with law without there being any deviation. Learned counsel for the petitioner submits that the petitioner is ready to join investigation and, therefore, the petitioner be granted the benefit of anticipatory bail.

Mr. Sandeep Singh Deol, DAG, Punjab, who has joined the proceedings through video conference, keeping in view the reply, which has been filed on behalf of the State submits that though, the petitioner was not named in the FIR but, keeping in view the record of the investigation, the petitioner is a part of the scam, where a huge amount was withdrawn from the accounts of the account holders, without there being any knowledge of the same to said account holders. Further, it has been mentioned that the amount was being deposited in the accounts of the dead persons and was thereafter withdrawn by Magwinder Singh in connivance with the petitioner, who was working as a Manager at the relevant branch. Learned State counsel further submits that the custodial interrogation of the petitioner is necessary to find out that which accounts have been used by them to deposit the amount, which was later on withdrawn by them as admitted by Magwinder Singh in his disclosure statement that the same was being done in connivance with others.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is not a case simpliciter, where the Court is to record a finding upon the guilt of the petitioner. This Court has to give a prima facie view whether the custodial interrogation of the petitioner is necessary to unearth the scam, which has been going on, where the innocent account holders have been duped of their money without there being any knowledge of the same to them or amount deposited in the accounts of account holders was withdrawn by the accused Magwinder Singh in connivance with others including the petitioner after the death of the account holders. In the present case, undoubtedly, the petitioner was working as a Manager, when the scam was being undertaken actively by the Secretary, Magwinder Singh, who has already disclosed that the said scam was being done in connivance with the others. In the reply, the respondent-State has mentioned that the petitioner has also signed certain vouchers in pursuance to which the amount was being withdrawn. All these facts are required to be investigated thoroughly to unearth the truth.

With regard to the contention of the learned counsel for the petitioner that the accounts of the dead persons (nine persons) were opened when the petitioner was not posted in the concerned branch and, therefore, opening of the accounts cannot be attributed to the petitioner, cannot be a ground to grant benefit of anticipatory bail as the petitioner might not have be posted in the said branch at the time of opening of accounts, but admittedly those accounts were operated after the death of the account holders and the said illegal operations of the accounts were done during the tenure of the petitioner. The petitioner has to explain the same. The custodial interrogation of the petitioner is very necessary in the present case to unearth the total scam, which runs into lakhs of rupees, which has taken place, admittedly, at the place, where the petitioner was working as Manager. Therefore, no ground is made out to allow the present petition, accordingly, the same stands dismissed.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

September 11, 2020 **(HARSIMRAN SINGH SETHI)**
aarti/naresh.k **JUDGE**

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