

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM No. M-32273 of 2020 (O&M)
Date of decision : November 02, 2020

Sanjiv Arora @ Sanjeev Kumar

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Ashish Gupta, Advocate, for the petitioner

Mr. Jagmohan Ghuman, DAG Punjab

Fateh Deep Singh, J. (Oral)

The matter has been taken up through Video-conferencing on account of outbreak of pandemic COVID-19.

Petitioner Sanjiv Arora @ Sanjeev Kumar has come up in this first anticipatory bail application under Section 438 Cr.P.C. in case FIR No. 129 dated 19.7.2020, under Sections 409, 420-, 120-B IPC, Police Station City Kotkapura, District Faridkot.

The present case was got registered by the complainant firm M/s National Trading Company alleging that they had engaged

services of Rajiv Arora co-accused non-applicant brother of the present petitioner for making collection on their behalf and who misappropriated the same leading to the registration of the present case. It is on the statement of Rajiv Arora, the name of the petitioner has cropped up being a participant in the crime.

Learned counsel for the petitioner has contended that the petitioner has no role to play in the commission of the offence as he was neither employed by the complainant nor ever functioned on their behalf. It is claimed that the petitioner has been falsely implicated being brother of the principal accused with an arm twisting tactic by the complainant.

Learned State counsel on getting instructions has strongly opposed the grant of bail on the grounds of seriousness of the allegation and that custodial interrogation of the petitioner is essential to effect the recovery of the amount of this embezzlement.

It is fairly conceded by the two sides that the petitioner Sanjiv Arora @ Sanjeev Kumar has no relationship whatsoever with the complainant firm nor he was delegated any duties for this collection. The only semblance of evidence against the petitioner is statement of his co-accused brother and thus a debatable issue arises over the very applicability of offences under Sections 409,

420 IPC qua the petitioner which can only be adjudicated at the trial. The principal accused has already been arrested and thus no cause to decline the prayer of the petitioner is made out.

In view of the aforesaid, the present petition is allowed. In the event of arrest, the petitioner shall be released on bail to the satisfaction of arresting/investigating officer till submission of report under section 173 Cr.P.C. (challan). The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, on presentation of challan, the petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court. Presently, the petitioner is directed to join investigation within 15 days of the receipt of the copy of order.

The present petition stands disposed of.

November 02, 2020

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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No