

CRM-M-38260 of 2020

{1}

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

206

CRM-M-38260 of 2020

Date of decision:22.12.2020

Mukesh Tyagi

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vikas Lochab, Advocate
for the petitioner.

Mr. Rajiv Sidhu, Deputy Advocate General, Haryana
for the respondent-State.

Mr. Arjun Shukla, Advocate
for the complaint.

SUVIR SEHGAL J.

The hearing of this matter has been taken up through video conferencing on account of outbreak of Covid-19 pandemic.

Instant petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner, Mukesh Tyagi, in case FIR No.450 dated 03.09.2020 registered under Sections 406, 420, 506 of Indian Penal Code, 1860 at Police Station Sector 7, District Faridabad, Annexure P-1.

As per the version of the prosecution, the FIR has been registered on the complaint of Kanwal Sikka wherein he stated that he

had invested money in a committee run by Mukesh Tyagi (present petitioner) and an amount of Rs.40,50,000/- is due from him, out of which he returned Rs.4,50,000/-. The petitioner has been evading the return of balance amount on one pretext or the other, despite the fact that he had purchased new vehicles. When the complainant persisted, the petitioner and his family members threatened to kill him. The complainant, accordingly, requested that action be taken on his complaint.

Counsel for the petitioner has argued that the alleged dispute is regarding the return of committee money and the committee/chit fund is under the control of co-accused Sanjay Singh. According to the counsel, all the transactions have been made by Sanjay Singh but the police is neither arresting him nor making him join the investigation. Counsel urges that details of the amount invested have not been given in the complaint. It is his submission that the amount, if any, was allegedly due in 2016 and a criminal complaint filed by the complainant for registration of FIR under Section 156(3) Cr.P.C was declined by the JMIC, Faridabad on 13.03.2020 (Annexure P-3). Lastly, he contended that from an examination of the FIR, no offence is made out.

Opposing the petition, State counsel, who is assisted by the counsel for the complainant has made a reference to the status

report/reply to the petition filed by way of an affidavit of Assistant Commissioner of Police, Ballabgarh, District Faridabad. On the basis of instructions from ASI Anil Kumar, it has been submitted that the petitioner has criminal antecedents and is not cooperating with the investigating agency. Reference has also been made to the various documents and statements of number of aggrieved persons recorded under Section 161 Cr.P.C. which have been appended with their reply.

I have considered the rival submissions of the parties.

From the material placed on the record by the State in its affidavit, it is apparent that the petitioner had given an application (Annexure R-2) in the CM Window Haryana wherein he stated that he alongwith Sanjay Singh had started the business of committee/chit fund in partnership by investing Rs.16,51,000/- and both of them had an equal share. It has been further mentioned in the application, which bears the signatures of the petitioner, that the petitioner had withdrawn Rs.11-12 lakhs from the committee but a major chunk of the money had been withdrawn by Sanjay Singh because of which the business suffered losses. In this background, the argument raised on behalf of the petitioner that co-accused Sanjay Singh alone was in control and responsible for the business, does not cut any ice.

The fact that the complainant was a member of the

committee and had invested money in the chit fund/committee is clear from the details of the transactions enclosed by the State as Annexure R-3 with its affidavit. The name of the complainant alongwith the amount invested by him is reflecting at different places from which it can be adduced that he had probably been depositing varying amount with the committee over the period of time. His name is also shown in the list of persons to whom money running into lakhs have to be paid by the committee.

Still further, the petitioner was granted interim bail by the learned Additional Sessions Judge, Faridabad but he did not cooperate in the investigation as he did not produce the original record regarding the committee/chit fund and his petition for anticipatory bail was dismissed by the Sessions Court, vide order dated 30.09.2020. According to the complainant, he did not initiate criminal proceedings earlier as he was threatened by the petitioner and his family members that they will eliminate him in case he insists on the refund of the committee money.

Besides the present case, another FIR involving similar allegations is pending against the petitioner, that is, FIR No.188 dated 01.03.2020 registered under Sections 406, 420 IPC at Police Station Mujessar Faridabad. The petitioner had filed a petition seeking anticipatory bail (CRM-M-14303 of 2020) in FIR No.188 dated

01.03.2020 which was rejected by this Court, vide order dated 15.10.2020. SLP (Criminal) No.5929 of 2020, preferred by the petitioner was dismissed by the Hon'ble Supreme Court on 11.12.2020 (Annexure R-1). The State has further stated that the petitioner has not been arrested till date nor has he joined the investigation.

The allegations against the petitioner are of having committed cheating, criminal breach of trust and intimidating the complainant. This Court is of the opinion that in view of the above background, the custodial interrogation of the petitioner is necessary not only to recover the due amount but also to find out the details of the extent of swindling and names of the other investors who have been duped. The petition for anticipatory bail, therefore, deserves to be rejected and is accordingly dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)
JUDGE

December 22, 2020
savita

Whether Speaking/Reasoned Yes

Whether Reportable Yes