IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-42923-2019(O&M)
Date of decision:-28.2.2020

Tarun

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.N.S. Shekhawat, Advocate
for the petitioner.

Ms.Dimple Jain, AAG, Haryana.

Mr.Manish Jain, Advocate
for the complainant.

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H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner - Tarun – an accused in FIR No.586 dated 28.8.2018 for the offences under Sections 409, 420, 467, 468, 471 and 120-B IPC, registered at Police Station Sampla, District Rohtak.

Briefly stated, facts of the case as per prosecution story are that complainant Rajesh Jain son of Risham Jain, General Manager(Finance) with M/s Universal Precision Screws, Kharawar had submitted a written complaint to Incharge, Police Post, Kharawar, Police Station Sampla, District Rohtak against Tarun Kumar (present petitioner) and others contending that said Tarun Kumar had been working as Manager (Accounts) with their firm M/s Universal Precision Screws, Kharawar since 6.4.2015 and he had been authorized by them to clear the payment in the accounts of various firms and vendors on behalf of the firm; that Tarun Kumar used to make payments in the accounts of the vendors of the firm through cheques and RTGS; Tarun Kumar with the help of his brother-in-law and in collusion with Master Capital, Panchkula had opened several fake accounts, clearing the payments in such fake accounts instead of crediting the payments in the accounts of the vendors; Tarun Kumar had wrongly prepared the account statement of clearance of the firm; as a matter of fact the entire money had been transferred by him in the fake accounts opened by him, thereby causing loss to the firm by transferring the same to the Master Capital, in that way embezzling the money committing criminal breach of trust against the firm; when the record was checked, the total amount embezzled by Tarun Kumar was found to be over Rs.14 crores; the entire embezzlement had been carried out by opening fake accounts on the basis of false and bogus documents; that 30.9.2018 was the last date for filing their balance-sheet, as such they were verifying their account statement and were also verifying and reconciling the payments made to the vendors and during the said exercise, they came to know that by making wrong entries in the accounts of approximately 20 vendors and by transferring the entire money in the accounts opened by him, Tarun Kumar had embezzled an amount of Rs.14 crores of the firm; when Tarun Kumar realized that his embezzlement had come to the notice of the accounts department, he stopped attending his office since 23.8.2018; however complainant along with Pardeep Kaushik son of Ram Kunwar of their firm called him on 27.8.2018 and inquired from him, then he told that he had committed such fraud in collusion with the owner and employees of Master Capital, Panchkula, namely, Shamsher and Sham, residents of Panchkula and he had conspired with his brother-in-law Rahul Dhingra, father -Sham Lal, mother – Radha Rani, wife – Heena and sister – Rekha Rani in doing so and he was planning to run away from the firm after leaving his job. When his such misdeeds were detected, the matter was reported to the police.

On the basis of such complaint, formal FIR was registered. Accused were arrested. The petitioner had approached the Courts below seeking regular bail but was unsuccessful, as such, he has approached this Court with same request.

Notice of the petition was given to respondent – State and counsel representing the State puts in appearance. The complainant has also appeared through counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner/accused has contended that the petitioner is a Chartered Accountant and he has been working as Manager (Accounts) with the complainant company; his wife is also in Government job and working as PGT with Education Department, Haryana; the petitioner is innocent and has not committed any offence, he is behind bars since 28.8.2018; though the complainant had tried to involve parents, wife, sister and brother-in-law of the petitioner in this case but during the course of investigation, they were found to be innocent. Therefore, challan has been filed against the petitioner, his sister Rekha, brother-in-law Rahul and one Deepak. The other co-accused had been granted anticipatory bail by this Court, whereas co-accused Rahul has been granted regular bail by Additional Sessions Judge, Rohtak. The version set up by the complainant is highly improbable and it does not appeal to reason that all the authorized signatories would authorize the payments to the alleged vendors merely on the asking of the petitioner, without ascertaining the details even once during the alleged period of more than two years. He has raised several other points, on merits stating that keeping in view the period of custody of the petitioner, he deserves to be granted regular bail.

However, learned counsel for the complainant has contended that the petitioner is master mind of the entire scam involving more than Rs.14 crores. He has prepared false documents and has siphoned off all money from the account of the firm. As such, he does not deserve concession of bail.

I on my part feel that the allegations against the petitioner are quite grave and serious of diverting the funds of the firm as per his own convenience without approval from the competent authority of the firm. He is alleged to have forged and fabricated documents while opening fake accounts, which he used for siphoning of money. At this stage, when the prosecution evidence is going on, it would not be proper and appropriate to grant regular bail to the petitioner since there is every possibility of petitioner trying to win over/influence the prosecution witnesses and to abscond even.

His release on bail at this stage may send a wrong signal in the society that despite being involved in a scam running into crores of rupees one can roam around freely. The trial against the accused is going on. His guilt shall be determined there. Many of the contentions raised by learned counsel for the petitioner touch merits of the case. Such contentions may be relevant during the trial but are not of much significance while determining as to whether the petitioner is entitled to grant of regular bail or not. The yardstick for grant of bail are quite different and distinct from the yardstick to be used to determine criminal liability of an accused during the trial.

As regards the grant of concession of bail to the co-accused of petitioner, since it comes out that the petitioner is a master mind in the scam, the seriousness of offence committed by him is more than all his co-accused, who appeared to have acted at his instance.

Learned counsel for the petitioner has referred to judgments ***Vinod Goenka Versus Central Bureau of Investigation, 2011(4) RCR(Criminal)898*** and ***Dipak Shubhashchandra Mehta Versus C.B.I. and anr., 2012(1) RCR(Criminal) 870***. However, those do not find application to the present case due to different facts and circumstances and the context in which such observations have been made.

Finding no merit in the petition, the same stands dismissed.

However, the trial Court is directed to conclude the trial expeditiously by giving short adjournments. The adjournments be granted for justifiable reasons only, which are to be recorded in the interim orders.

28.2.2020 **(H.S.MADAAN)**
Brij **JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No