102 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3858-2021
Date of Decision : 23.02.2021

Sanjeev Kumar …Petitioner

Versus

State of Punjab ...Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. RK Handa, Advocate for the petitioner.

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B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

2. Prayer in the petition under Section 438 Cr.P.C is for grant of anticipatory bail to the petitioner in case FIR No.60 dated 16.08.2017 registered under Sections 406, 420 IPC and 419, 428, 465, 467, 468, 471, 473, 201, 120B IPC (added later on) at Police Station Naya Gaon, District SAS Nagar, Mohali. At the outset it needs mention that the petitioner had filed a petition u/s 438 Cr.P.C. for grant of anticipatory bail in the aforementioned case which was dismissed by the learned Additional Sessions Judge, SAS Nagar Mohali vide order dated 21.12.2018. The petitioner managed to avoid the law for close to two years, thereafter filed another petition u/s 438 Cr.P.C. which was also dismissed by the learned Additional Sessions Judge, SAS Nagar Mohali vide order dated 13.01.2021 whereafter the instant petition has been filed.

3. Learned counsel contends that name of the petitioner is not mentioned in the FIR and he has been implicated in a false case. Learned Counsel contends that as per case of the prosecution before the learned Additional Sessions Judge, SAS Nagar Mohali,15 persons were defrauded of Rs.9,00,000/- each on the pretext of sending them to Canada and said amount was received by way of demand draft from each of the victims and was deposited in a bank account opened on the basis of forged documents. Learned Counsel contends that as per the prosecution it was Shashmer Singh co accused who opened the account by using the documents of Harwinder Singh whereafter Karanbir Singh and Shamsher Singh co accused withdrew the amount with the connivance of the Manager UCO Bank. Thereafter another account was opened at Naya Gaon Branch by said Shamsher Singh by using the documents of Harwinder Singh and three Demand Drafts of Rs. 9 lacs each were deposited by Karanbir Singh and Shamsher Singh in said account out of which some amount was withdrawn but remaining amount could not be withdrawn due to defect in Aadhar Card whereupon said Harwinder Singh alias Shamsher Singh transferred Rs. 15 lacs in the account of the petitioner who thereafter issued two cheques i.e. of Rs.10,00,000/- dated 04.03.2014 and Rs.5,00,000/- dated 05.04.2014 in the name of one Ravi Kumar.

4. Per Contra, learned DAG contended that the account in UCO Bank Nayagaon Branch was opened by Karanbir Singh and Harwinder Singh alias Shamsher Singh in the name of the Receiver General Canada on the basis of forged documents of Harwinder Singh with the connivance of the Manager of UCO Bank in which three demand drafts of Rs.9,00,000/- each were deposited and some amount was withdrawn but the balance

could not be withdrawn whereafter, Rs. 15 lacs were transferred from said account in the account of the petitioner.

5. Learned DAG contends that the account in UCO Bank, Naya Gaon Branch was opened on 13.02.2014 by using the documents of Harwinder Singh though in the name of the Receiver General, Canada while the petitioner opened an account in UCO Bank, Naya Gaon Branch just two days thereafter i.e.on 15.02.2014 whereupon Rs.15,00,000/- was transferred from said account by said persons to the account of the petitioner on 04.03.2014. Learned DAG further states that the connivance of the petitioner in the fraud is writ large since he received Rs.15,00,000/- on 04.03.2014 in his account from the account of the Receiver General, Canada whereas he claims that the money was transferred by HarwinderSingh @ Shamsher Singh to his account and thereafter he issued two cheques i.e. of Rs.10,00,000/- dated 04.03.2014 and Rs.5,00,000/- dated 05.04.2014 in the name of one Ravi Kumar who surprisingly is not traceable.

6. I have considered the submissions of learned counsel for the parties.

7. FIR No.0060 dated 16.08.2017 stands registered under Sections 406, 420 IPC and 419, 428, 465, 467, 468, 471, 473, 201, 120B IPC at Police Station Naya Gaon, District SAS Nagar, Mohali, although initially it was registered only under Section 406 and 420 IPC. As per the prosecution, Shamsher Singh impersonated Harwinder Singh and opened an account in UCO Bank, Naya Gaon in the name of Receiver General, Canada in which he deposited three demand drafts of Rs.9,00,000/- each totaling Rs.27,00,000/- and while part of the amount was withdrawn, Rs.15,00,000/- was transferred to the account of the petitioner which was opened in the same Bank and Branch just two days after the opening of the account of

Receiver General, Canada which was got opened by Harwinder Singh @ Shamsher Singh with the connivance of the Bank Manager. As per stand of learned counsel for the petitioner, account was opened by the petitioner in UCO Bank, Naya Gaon on the asking of his friend Vivek Kumar who had contacted him to withdraw Rs.15,00,000/- lying in the account of Harwinder Singh @ Shamsher Singh but when they contacted the Bank Manager, he advised to get the amount transferred in his account whereupon said amount was transferred by Harwinder Singh @ Shamsher Singh in the account of the petitioner and a cheque was issued by the petitioner on the same date for Rs.10,00,000/- in favour of one Ravi Kumar while another cheque for balance amount of Rs.5,00,000/- was issued in the name of Ravi Kumar on 05.04.2014. It is strange that the petitioner received Rs.15,00,000/- on 04.03.2014 in his account from the account of the Receiver General, Canada whereas he claims that the money was transferred by Harwinder Singh @ Shamsher Singh to his account and thereafter he issued two cheques i.e. of Rs.10,00,000/- dated 04.03.2014 and Rs.5,00,000/- dated 05.04.2014 in the name of one Ravi Kumar who surprisingly is not traceable. The petitioner cannot claim to be oblivious of his having received Rs.15,00,000/- by way of Bank transfer from the account of Receiver General, Canada. In the aforementioned background, the plea put forth that the petitioner is a victim of circumstances does not commend to logic.

8. In the light of the position noted above, I also find merit in the submission of learned DAG that role of the petitioner in the conspiracy with Karanbir Singh, Harwinder Singh alias Shamsher Singh and Vivek in defrauding 15 persons, the circumstances and purpose for opening of account by the petitioner in UCO Bank, Naya Gaon, purpose for receipt of amount of Rs. 15 lacs in the account of the petitioner from the account of the

Receiver General though allegedly from the account of HarwinderSingh is to be ascertained,details and whereabouts of Ravi Kumar to whom petitioner issued two cheques i.e. of Rs.10,00,000/- and Rs.5,00,000/- totaling Rs.15,00,000/- and the purpose for which said cheques were issued has to be ascertained, besides, the money recovered, for which custodial interrogation of the petitioner is necessary else the investigation would be meaningless in case the petitioner is armed with an order of pre arrest bail. Reference in this context can be made to the decision of Hon'ble the Supreme Court in '***CBI*** *versus* ***Anil Sharma***' *1994 (4) RCR (Crl.) 268.*

9. Accordingly, finding no merit in the petition u/s 438 Cr.P.C., the same is dismissed. However, nothing stated hereinabove would be taken to be an expression of opinion on the merits of the case.

(B.S. Walia)
Judge

February 23, 2021
'ps'

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