207.

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

CRM-M-11592-2021
Date of decision: 19.03.2021

Deepak Goyal ... Petitioner

versus

State of Haryana and another .... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Vinod Ghai, Senior Advocate, with
Ms. Kanika Ahuja and Ms. Kirti Ahuja, Advocates,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana,
for respondent No.1.

Mr. G.S. Sandhu, Advocate,
for respondent No.2-complainant.

<u>HARI PAL VERMA, J.</u>

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of pre-arrest bail to the petitioner in case FIR No.22 dated 12.01.2021 registered under Sections 419, 406, 420, 467, 471, 120-B, 506 of IPC at Police Station Sadar, Yamuna Nagar.

Complainant-Abhishek Arora, who is running a firm in Jagadhri under the name & style of Satyam Industries since 2014, has made a complaint to the police against the accused and on the basis of which, present FIR has been registered. As per the FIR, the complainant came in contact with the petitioner, who allured him that he can get loan sanctioned on low/easy interest rates for the complainant and in this context, the petitioner along with co-accused Manoj Kumar Jain and Rajeev Kumar visited the factory of the complainant in the year 2018 and took photocopies of important documents i.e. partnership deed, PAN card, voter card, driving license, passport, digital signatures, bank statements and balance sheet etc. and also took photographs of the factory. The petitioner also allured the complainant that he can easily get the loan sanctioned of other enterprises of the complainant pertaining to his mining business. He demanded some amount from the complainant and accordingly, the complainant transferred the amount through RTGS from the account of his mining firm which is under the name & style of Goverdhan Mining to the firm of petitioner under the name and style of Manu Enterprises. Thereafter, the petitioner and co-accused kept on lingering on the matter regarding sanctioning of the loan. Since the complainant was apprehensive regarding misuse of his documents, therefore, on 21.09.2019, a MoU was prepared, but was not signed by the complainant since the terms and conditions of the same were not acceptable to the complainant. On 30.09.2019, the complainant closed down his firm M/s Satyam Industries and surrendered the GST number to the department and cleared all his dues. One week before filing the present complaint, the complainant got telephonic calls from different banks informing about loans outstanding in his name and upon checking of record, the complainant found outstanding loan of Rs.54 lacs in his name and another outstanding amount of about Rs.2 crores in the name of his firm M/s Satyam Industries. In this manner, the petitioner along with co-accused have misused the documents given to him in good faith by forging and fabricating the GST number, PAN

Card and other documents of the complainant and his firm and have misused the documents by obtaining various loans by cheating multiple banks and by impersonation.

Learned senior counsel appearing on behalf of the petitioner has argued that the present FIR is based on misrepresentation. The complainant in order to save himself, has concocted a false story so as to implicate the present petitioner. The complainant and co-accused Manoj Jain were the partners of the firm. They along with another partner Manoj Kumar Dhingra had connived and taken loans by preparing their own forged documents. Since they were not able to repay the loan, they have concocted a story. Neither any document was ever given to the petitioner nor he had taken any loan in the name of firm of the complainant. There is no transaction of any amount in the form of cheque or RTGS in the account of petitioner. It is the case of the complainant that he deposited or transferred money in the account of Manu Enterprises, whereas the petitioner is not connected with the said firm in any manner and the co-accused Manoj is the only proprietor in Manu Enterprises. The petitioner has not done anything. The allegation that the complainant has ever paid money in cash to the petitioner is not substantiated by any document on record. Even the allegation of the complainant that he had transferred Rs.1,80,00,000/- in another firm at the instance of the petitioner is again a concocted story as the Investigating Agency has not been able to prove the same by any evidence. In fact the manner in which the complainant has manipulated the story rather establishes that he ought to be tried as an accused. The complainant in connivance with co-accused Manoj Jain provided the security cheques for obtaining loans in his firm M/s Satyam Industries and in support thereof, he has referred to the bank statement (Annexure P-2). The precise argument is that neither the petitioner signed any document nor he is partner in any firm and merely because he was seen sitting in the office of co-accused Manoj Kumar is not sufficient enough to array him as an accused.

On the other hand, learned State counsel as well as learned counsel for the complainant have argued that the petitioner has fabricated documents of the complainant and has obtained loans and has committed fraud with him. The complainant has already closed the firm and it is after closure of the firm, the petitioner has misused those documents. The petitioner is otherwise involved in similar numerous other cases for which presently he is confined in Tihar jail which is sufficient to establish that the petitioner is habitual of committing such like offences repeatedly.

Counsel for the complainant has further argued that the petitioner is involved in 7 other cases of similar nature and in one of the cases though he was admitted on bail, but bail was cancelled because he misused the concession of bail. The signatures of the complainant on documents are forged one.

I have heard learned counsel for the parties.

The allegations against the petitioner are of misusing the documents of the complainant and his partner to avail forged loans, which led to serious financial implications to the complainant. The petitioner while forging the signatures and documents, has opened forged accounts and committed fraud upon the complainant. The complainant had shifted his firm Satyam Industries to the State of Punjab and started business after taking the GST number. He fixed his head office at his residence. The petitioner met the complainant and his father Mahesh Wadhwa at Ghaziabad and introduced himself that he can get loan etc. sanctioned from the financial institutes at very low rate of interest and further stated that in lieu of availing loan, some companies provide insurance to such loanee and their families. Thereafter, the petitioner started approaching the complainant and his father through phone. The petitioner gave the impression as if he is very genuine person. The petitioner visited the complainant, took photographs of the factory and had taken various documents from the complainant including the documents of land of the complainant's firm, PAN card of the complainant and his partner, Voter ID, Driving License, Passport, Pan Card of the company, Digital signature, bank statements, balance sheet and other documents etc. with the assurance that he will very soon get the loan sanctioned for the complainant's firm. During that time, the complainant was engaged in mining work at Hisar and the petitioner talked about loan for that site as well. He asked for some money from the complainant to get the loan sanctioned quickly. Acting on the presentation of the petitioner, the complainant transferred a lot of amount in the account of the petitioner through RTGS from the account of his mining firm i.e. Govardhan Mining. However, when the complainant enquired about the sanctioning of loan, the petitioner kept on eluding. Since the complainant was apprehensive regarding misuse of their documents, therefore, on 21.09.2019, a MoU was prepared, but the same was not signed by the complainant as the drafted terms and conditions were not acceptable to the complainant. Accordingly, on 30.09.2019, the complainant closed down his firm M/s Satyam Industries and rather surrendered the GST number and cleared all dues. After some time, the complainant received a telephonic call from the bank and it surfaced that there were outstanding loan amounts in the name of the complainant and his firm. On checking of record, the complainant found that Rs.54 lacs is outstanding in his name whereas another amount of Rs.2 crore is outstanding in the name of his firm M/s Satyam Industries.

The allegations against the petitioner are that he while forging the documents including GST number, PAN Card and other documents of the complainant, has obtained heavy loans in the name of the complainant and his firm. The petitioner has taken even a cash of Rs.30 lacs from the complainant on the pretext of sanctioning of loan and another amount of Rs.1,80,00,000/- was transferred by the complainant from his firm Goverdhan Mines to the firm of the petitioner i.e. Manu Enterprises. The petitioner and other co-accused in conspiracy with each other have forged the documents including the PAN Card, GST number and partnership deed of the firm of the complainant M/s Satyam Industries and while misusing those documents have obtained various loans of huge amounts. The petitioner has gone to the extent of forging retirement-cum-partnership deed created for the purpose. The petitioner has withdrawn an amount of Rs.62,50,000/- from IDFC First Bank Chet Pet, Chennai. The allegations against the petitioner are serious. Moreover, in the present materialistic scenario such like fraud are on high rise.

There are serious allegations against the petitioner of committing fraud by fabricating documents. The petitioner is otherwise involved in 7 other FIRs similar to the present one and this fact is not disputed by the learned counsel appearing on behalf of the petitioner during the course of his arguments. Thus, in order to unearth such fraud, custodial interrogation of the petitioner is required.

Hon'ble Supreme Court in ***P. Chidambaram Versus Directorate of Enforcement (SC) 2019 (4) RCR (Criminal) 875*** has observed that the power under Section 438 Cr.P.C. is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The anticipatory bail is not to be granted as a matter of rule, rather, it has to be granted only when the Court is convinced that the exceptional circumstances exist to resort to such extraordinary remedy. The relevant paragraph No.67 of the said judgment reads as under:-

> *"67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C. is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the Court is convinced that the exceptional circumstances exist to resort to that extraordinary remedy."*

In view of above, the petitioner, who is presently confined in Tihar Jail and is found involved in 7 other cases of similar nature, has failed to make out a case for grant of anticipatory bail. In order to unearth the modus adopted by the petitioner, his custodial interrogation is necessary.

Thus in view of aforesaid judgment, nature of allegations, the amount involved in the present case, this Court does not find any reason to admit the petitioner on anticipatory bail.

Accordingly, the present petition is dismissed.

(HARI PAL VERMA)
JUDGE

19.03.2021
sanjeev

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No