IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-19920 of 2021 (O&M)
Date of decision : 28.7.2021

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Deepak Kumar
................Petitioner

vs.

State of Punjab
.................Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. K.B. Raheja, Advocate for the petitioner.

Mr. J.S. Ghuman, Deputy Advocate General, Punjab

Mr. G.N. Malik, Advocate for the complainant.

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<u>H. S. Madaan, J. (Oral)</u>

Case taken up through video conferencing.

This petition for pre-arrest bail has been filed by petitioner – Deepak Kunar, aged 42 years, son of Vijay Kumar, resident of village Lassoi, Tehsil Malerkotla, District Sangrur, being accused in FIR No. 208 dated 12.12.2020, for offence under Sections 420, 406, 120-B IPC, registered at Police Station Sadar, Ahmedgarh, District Sangrur.

Briefly stated, the facts of the case as per the prosecution story are that criminal machinery in this case was set into motion by complainant Baljeet Singh Tiwana and several other persons, residents of village Lassoi, Police Station Ahmedgarh, District Sangrur, who in the written complaint submitted by them to SSP, Sangrur sought registration of the FIR against Vijay Kumar son of Milakh Raj, his wife Darshna Rani as well as their son Deepak Kumar - petitioner-accused, earlier residents of village Lassoi and presently residing at Guru Teg Bahadur Colony, Backside Prem Lata Hospital, Malerkotla. *Inter alia* in the complaint, the complainants contended that Vijay Kumar and his whole family including his wife Darshna Rani and son had been working as commission agents at village Lassoi; they purchased Kharif (rice crop) but did not make the payment to the concerned farmers according to J forms, although they had received the amount deposited by the Government with regard to the crops sold by the farmers; the accused had used the money for their own purposes; it was with great difficulty that the accused had paid an amount of Rs.28 lakhs, whereas remaining amount was misappropriated by the accused committing fraud of about 87 lakhs, which included payments for earlier crops as well as for Kharif crop; the accused own big properties in the form of four houses in Malerkotla, two big plants in industrial area a cold store on Ludhiana Road, two rice shellers at village Lassoi and 130 bighas of agricultural land in the name of daughter of Vijay Kumar; the accused have created all those properties with the money belonging to the innocent farmers receiving the amount from the Government without paying the same to the farmers concerned; earlier also, Vijay Kumar had committed a fraud at Khanna about 30 years ago and then he left that place; a criminal case was registered against him at that time. On receipt of such complaint, formal FIR was registered.

Apprehending his arrest in this case, petitioner-accused had approached the Court of Sessions seeking grant of pre-arrest bail but his such application was dismissed by the Court of learned Additional Sessions Judge, Sangrur vide order dated 12.1.2021. As such, he has approached this Court asking for similar relief by way of filing the present petition.

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

Pre arrest bail is a discretionary equitable relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation.

In this case, after the complaint was received from the complainants by the police, the matter was enquired into by the S.P. Investigation, Sangrur and the allegations in the complaint were found to have merit and involvement of the present petitioner in the whole episode was found to be there. The case of the prosecution is that though Commission Agency business is being run in the name of mother of the petitioner, who is of old age, but it is the petitioner who is managing and handling the affairs of the firm and is deeply involved in the whole scam.

The allegations against the petitioner are quite grave and serious that he alongwith his co-accused had usurped/mis-appropriated Rs.1,21,20,316/- payable to the complainants. In that way causing huge financial loss to the complainants. Such act and conduct of the petitioner clearly dis-entitles him to the discretionary equitable relief of pre-arrest bail. In this case, custodial interrogation is required for complete and effective investigation to effect the recovery and to find out as to how the scam was planned and executed, the role played by different persons therein. In case it is denied to the Investigating Agency, that will leave many loose ends and gaps in the investigation affecting the investigation adversely, which is not called for.

Therefore, no case for grant of pre arrest bail is made out.

The petition stands dismissed.

(H.S. Madaan)
Judge

28.7.2021
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Whether speaking / reasoned Yes / No
Whether reportable Yes / No