IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-17907-2019
Date of Decision: 01.07.2021

Sumit Jain

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. P.S. Jammu, Advocate, for the petitioner.

Mr. Deepak Manchanda, Additional Advocate General, Haryana.

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Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C for seeking grant of anticipatory bail to the petitioner in case bearing FIR No. 55 dated 20.01.2018, under Sections 420, 467, 468, 471 of Indian Penal Code, 1860, registered at Police Station City Sirsa, District Sirsa.

The learned counsel for the petitioner has submitted that as per the allegation which has been contained in the FIR which was lodged at the instance of one Sandeep Batra who was working as Branch Head at Axis Bank Ltd. Sirsa Branch by alleging that a fraud has been detected in the Bank wherein one cheque was deposited in the account of one Azad Pesticides and Fertilizers (Proprietorship account) and the said cheque was a fraudulent cheque and, therefore action be taken against the responsible person.

The learned counsel for the petitioner submitted that in pursuance of the aforesaid FIR, investigation was conducted by the police and one co-accused namely Ramesh was arrested on 19.06.2018. On the basis of the disclosure statement of the aforesaid Ramesh, the involvement of other co-accused namely, Ravi Raj, Aman and Vijender Singh was also made and they were nominated as accused. The aforesaid Ramesh further disclosed that he had deposited the cheque in the bank which was brought by Avinash and Rinku. Thereafter, Aman Kumar and Ravi Raj were also arrested in the present case. It was on the basis of the disclosure statement made by these accused who were nominated on the basis of the disclosure statement that the name of the petitioner came up by way of a second disclosure statement that the petitioner forged the cheque in question. The learned counsel for the petitioner stated that the petitioner had neither deposited the cheque nor was he a beneficiary of the cheque nor was the cheque encashed. He submitted that on the basis of second disclosure statement his name has been nominated by alleging that he was the person who had forged the cheque whereas in fact he had never deposited the cheque. The learned counsel further submitted that the petitioner was granted interim protection by this Court on 23.04.2019 which is about more than 2 years ago and thereafter he has repeatedly co-operated with the investigation process.

On 4.12.2019 the State counsel had brought to the notice of the Court that the petitioner was not fully co-operating with the Investigating

Agency and, therefore, the petitioner was again directed to join investigation on 12.12.2019 at 1:00 P.M. Again on 24.02.2020 the State took an objection that the petitioner was not co-operating with investigation process and therefore, this Court directed the petitioner to appear on 03.03.2020 at 02:00 P.M. The learned counsel for the petitioner further submitted that on all the occasions the petitioner had joined investigation and had co-operated with the investigation process and therefore, the custodial interrogation of the petitioner is not required. He further submitted that there is nothing to be recovered from the petitioner and allegation against the petitioner was that he had forged the cheque. The learned counsel further submitted that the original cheque is already with the police and he further referred to Annexure P-3 wherein the other co-accused namely Avnish against whom the allegations were made that he was involved in the alleged action as he was the bank employee. The aforesaid Avnish has been granted anticipatory bail by a Co-ordinate Bench of this Court on 22.10.2018. The learned counsel further submitted that for two years the petitioner had been visiting the police station and had been co-operating with the investigation process but the police had been harassing him on one pretext or the other and in fact no recovery is to be effected from the petitioner and everything is based on the documentary evidence. He has therefore prayed for grant of anticipatory bail to the petitioner.

On the other hand. Mr. Deepak Manchanda, learned Additional Advocate General, Haryana has submitted that it is correct that the petitioner had been coming to the police station and had joined the investigation but was not co-operating with the investigation process. On being asked as to how he was not co-operating with the investigation process and what was required from him, the learned State counsel has not been able to answer the query of the Court. The learned State counsel submitted that during investigation the petitioner has not answered the question of the Investigating Officer as to what is the address of one of the co-accused Pankaj.

The learned counsel for the petitioner however replying to the submission made by the learned State counsel has stated that he did not know the address of the aforesaid Pankaj and therefore, he could not answer the question put forth by the Investigation Officer. The learned counsel submitted that the same itself is not a ground for denial of the anticipatory bail

I have heard the learned counsel for the parties.

The interim protection was granted to the petitioner on 23.04.2019 which is more than 2 years and admittedly the petitioner had been visiting the police station but only objection which has been raised by the learned State counsel is that he is not co-operating. The submission made by the learned State counsel does not inspire any confidence at this stage because there is nothing on the record or in the arguments of the learned State counsel to show how the petitioner was not co-operating with the investigation process. Even otherwise, the name of the petitioner has been nominated on the basis of a second disclosure statement and the allegation against the petitioner was that he had forged a cheque. The challan with regard to the other-accused has already been presented. One of the main co-accused namely Avnish has also been granted anticipatory bail by this Court vide Annexure P-3. It is not the case of State that in case relief of anticipatory bail is granted to the petitioner, he may influence any witness or tamper record or flee from justice.

Therefore, considering the totality of the circumstances of the present case, I deem it fit and appropriate to allow the present petition.

Consequently, it is directed that the petitioner shall continue to join the investigation as and when called upon to do so and he will co-operate with the Investigating Officer and shall abide by the conditions provided under Section 438(2) Cr.P.C. However, in the event of arrest of the petitioner, he shall be released on bail subject to furnishing personal bond/surety bond to the satisfaction of Arresting/Investigating Officer

The petition stands allowed.

However, it is made clear that aforesaid observations of this Court are only for the purpose of deciding the present petition and will not in any manner whatsoever reflect on the merits of the case.

01.07.2021 **(JASGURPREET SINGH PURI)**
rakesh **JUDGE**

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