IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(203)

CRM-M-32440-2021 (O&M).
Date of Decision:-23.11.2021.

Aru Nanda

……Petitioner

Versus

State of Haryana and another

……Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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Present: Mr. Keshav Pratap Singh, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

Mr. Kunal Dawar, Advocate for respondent No.2/complainant.

(Through Video Conferencing)

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VIKAS BAHL, J. (Oral)

CRM-38458-2021

This is an application under Section 482 of Cr.P.C. for impleading applicant/complainant as party i.e. respondent No.2 in the present case.

For the reasons stated in the application, the same is allowed and the applicant/complainant is ordered to be impleaded as respondent No.2.

Amended memo of parties is taken on record.

CRM-M-32440-2021

This is the first petition for grant of anticipatory bail to the petitioner in case bearing FIR No.21 dated 04.02.2021 under Sections 406, 420, 467, 468, 471 and 120-B of IPC, registered at Police Station Sector-53, Gurugram, District Gurugram.

On 12.08.2021, a Co-ordinate Bench of this Court was pleased to pass the following order:-

> *"Prayer is for grant of anticipatory bail in case FIR No.21 dated 04.02.2021 under Sections 406, 420, 467, 468, 471, 120-B IPC registered at Police Station Sector 53, Gurugram. District Gurugram.*
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> *As per allegations in the FIR registered on the complaint of Sanjay Singh Tanwar, Director of M/s Starcrest Services, which is in the business of providing security services being GST registered Company. It is alleged that it had entrusted the task of filing GST returns to Harish Kumar Rampal, Chartered Accountant, who is running firm by the name and style of M/s Rampal and Company. It was the duty of said Harish Kumar Rampal to file requisite GST returns of the Company, thus for this purpose, he was seeking various documents and information from the companies. It is alleged that under the garb of filing GST return, Harish Kumar Rampal was regularly asking the Companies to transfer payable GST amount to bank account of his firm as also bank account of co-accused Pooja Sablok an Associate of that Firm. Having reposed faith and confidence in M/s Rampal and Company, an amount of Rs.18,68,85,294/- was transferred by the complainant Company into account of accused persons from July 2017 till date. Upon search being conducted by a team from the Department of*

Goods and Service Tax Intelligence headed by an officer with the rank of Deputy Director, who visited the premises of the Company on 22.1.2021, it came to the notice of the complainant that less GST was being paid to the Government. Said Harish Kumar Rampal is alleged to have manipulated GST returns of the Company and filed forged challans and returns thereby cheating the complainant company with over Rs.14 crores, which was to be deposited with the concerned Department on account of GST. He further revealed that he had siphoned off the money so as to purchase properties in India as well as abroad. He promised to return the said amount to the complainant Company. He also admitted that a sum of Rs.5.5 crores out of Rs.14 crores had been transferred in the account of Pooja Sablok, who was an employee of M/s Rampal and Company. It is the case of the prosecution that an amount of Rs.31 lacs from the amount received by Pooja Sablok had been transferred into the account of the petitioner, who is the sister of Pooja Sablok. This amount was transferred through various transactions between the year 2018 to 2021.

Learned counsel for the petitioner contends that the petitioner is, in no way, involved of defrauding the complainant company. The petitioner, who is a married lady having her own family, is living separately from her sister Pooja Sablok and that she was not aware about the working of her sister. The amount had been received by the petitioner as friendly loan from her sister. An amount of Rs.21 lacs out of Rs.31 lacs has *already been returned to Pooja Sablok. He undertakes that the petitioner is ready and willing to cooperate with the investigation. He also states that with a view to show his bonafide, the petitioner would deposit an amount of Rs.10 lacs with the learned trial Court.*

Notice of motion.

Sh. Surender Singh, AAG, Haryana accepts notice on behalf of respondent-State of Haryana and points out that Kia car had been purchased by Pooja Sablok from the amount received by her from Harish Kumar Rampal and said car is in possession of the petitioner. He further states that Pooja Sablok had also purchased a Flat in the name of the petitioner, documents whereof are still to be recovered from the petitioner.

Sh. Kunal Dawar, Advocate puts in appearance on behalf of the complainant and submits that admittedly an amount of Rs.10 lacs out of Rs.31 lacs received by the petitioner is still with the petitioner and the said amount ought to be returned to the complainant.

Adjourned to 23.11.2021.

Meanwhile, in the event of arrest, the petitioner shall be released on interim anticipatory bail to the satisfaction of the Arresting/Investigating Officer, subject to the conditions provided under Section 438 (2) Cr.P.C. The petitioner is also directed to join the investigation and cooperate with the Investigating Agency, as and when required.

This shall be subject to the petitioner depositing an amount of Rs.10 lacs with the learned trial Court within a period of two weeks from today."

Learned counsel for the petitioner has submitted that in pursuance of the above order, the petitioner has joined the investigation and even to show her *bona fide*, the petitioner had deposited an amount of Rs.10 lakhs with the trial Court. Learned counsel for the petitioner has further submitted that without prejudice to the rights of the petitioner, the said amount of Rs.10 lakhs be released to the GST Authorities.

Learned State counsel has submitted that the petitioner has joined the investigation on three occasions but there is still some recovery to be made from the petitioner and has, thus, opposed the application for grant of anticipatory bail.

Learned counsel for respondent No.2-complainant has submitted that the payment of Rs.10 lakhs by the petitioner to the GST Authorities should not in any way be construed as if the matter has been fully and finally compromised entitling the petitioner to file a case for quashing of the FIR on the basis of compromise.

Keeping in view the above-said facts and circumstances, moreso, the facts which have been noticed in the detailed order dated 12.08.2021 passed by a Co-ordinate Bench of this Court, as also the fact that the allegations in the FIR are primarily against Harish Kumar Rampal, who was the Chartered Accountant and it was his duty to file the requisite GST returns and also the fact that the petitioner is only involved in the case as there is a transfer of some amount and also the fact that as per the petitioner, the amount of Rs.21 lakhs out of the said Rs.31 lakhs has already been returned to Pooja Sablok and the balance amount of Rs.10 lakhs has already been deposited with the trial Court, regarding which there is no objection in case the said amount is deposited with the GST Authorities and also the fact that the petitioner has joined the investigation, the present petition for grant of anticipatory bail is allowed and interim order dated 12.08.2021 is made absolute.

It is however, clarified that the payment of the amount of Rs.10 lakhs is without prejudice to the rights of the petitioner as well as the complainant, as by virtue of the said payment, neither the petitioner has admitted her guilt in the matter nor the complainant has fully and finally settled the matter with the petitioner so as to entitle her to file petition for quashing of the FIR solely on the basis of compromise.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

Pending miscellaneous application, if any, shall stand disposed of in view of the above order.

(VIKAS BAHL)
JUDGE

November 23, 2021.
sandeep
Whether speaking/reasoned:- Yes/No
Whether Reportable:- Yes/No