IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-43239 of 2021
Date of decision: 20.12.2021

Sachin Kumar

Petitioner

Versus

State of Haryana and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gursimran Singh, Advocate for the petitioner.
Ms. Dimple Jain, AAG, Haryana.

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AVNEESH JHINGAN, J (Oral):

The petitioner aggrieved of the rejection of prayer of anticipatory bail in FIR No. 679 dated 13.7.2019, under Sections 420, 467, 468 and 471 IPC, registered at Police Station Chandni Bagh, Panipat is before this Court under Section 438 Cr.P.C.

The FIR was registered on the basis of a complaint received from an Excise and Taxation Officer Ward No. 9, Panipat. During enquiry, it was found that M/s Paras Enterprises, Panipat and certain other fake firms were created for claiming bogus Input Tax Credit (for short, 'ITC'). They were utilizing 'C' forms cancelled by the Excise and Taxation Department. In the enquiry, it transpired that M/s Ambika Traders, Panipat, a proprietorship concern of Rahul, got itself registered with the date of liability from 1.4.2017. Neither the proprietor nor the concern could be traced on the given address. Mobile number mentioned in the registration certificate application was of one Deepak. No returns were filed by the concern during 2017-2018 but used 'C' forms worth Rs.54.74 crores in first quarter. The record from the Excise and Taxation Department was summoned. Special Investigating Team (for short, 'SIT') was constituted.

Learned counsel for the petitioner submits that the petitioner is a taxation lawyer who had rendered his professional services to Rahul for getting the concern registered under the Haryana Value Added Tax Act, 2003. He further submits that before grant of registration certificate, it is Excise and Taxation Inspector who visits the site and thereafter the prescribed authority on the basis of report submitted register the firm. The contention is that the petitioner was granted anticipatory bail in FIR No.683 dated 13.7.2019, under Sections 420, 467, 468, 471 IPC, registered at Police Station Chandni Bagh Panipat.

Learned counsel for the State opposes the prayer for grant of pre-arrest bail. She relies upon the pleadings of the reply filed.

It is argued that SIT during its investigation found that shop No. 9, Green Village Gohana Road, Panipat was being used for getting various firms registered including Ambika Traders. On the same address, at least two other firms were got registered. The shop at present belongs to Rajiv Garg who on summoning told that Rahul never resided nor carried out any business in the shop for the last about 2-3 years. Rajiv Garg also stated that he had never let out his shop to any one. Rent agreement attached for registration of concern was found forged. It was revealed that till 2015, the shop was owned by the petitioner.

The submission of learned counsel for the State refutes the contention raised by learned counsel for the petitioner that the petitioner was an Advocate rendering his legal services. It is submitted that Vakalatnama (Power of Attorney) filed for getting registration of Ambika Traders was in the name of Advocate-Rupali and she denied to have executed or filed any Vakalatnama on behalf of Ambika Traders. It is further submitted that the petitioner used the mobile number of his brother for getting the firm registered. Surety furnished of M/s Mangal International for getting registration was forged, as the person concerned in his statement before the police stated that his documents and IDs were mis-used by the petitioner without his permission.

She further submits that even after grant of ad interim anticipatory bail, the petitioner has not joined the investigation in FIR No. 683 dated 13.7.2019. The contention is that the petitioner is involved in four other similar FIRs.

Learned State counsel informs the Court that the matter is under investigation, roles of officials of taxation department are being inquired into.

In ***State of Gujarat Versus Mohanlal Jitamalji Porwal and others (1987) 2 SCC 364,*** the Supreme Court held as under:-

> *"5. ….The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-*

> *handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest….."*

In ***Y.S. Jagan Mohan Reddy Versus CBI (2013) 7 SCC 439,*** the Supreme Court held as under:-

> *"34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.*
>
> *35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations."*

In the present case, the allegations are of creating bogus firms for using or facilitating bogus ITC, public money is involved and State exchequer is affected. The contention of learned counsel for the petitioner that he was an Advocate who had assisted in compliance of procedure for registration of the concern, in view of the pleadings in the reply *prima facie* falls on the face of it. It would not be appropriate to make any further comments on the issue at this stage. Suffice to say that in the contention raised by learned counsel for the State, the role of the petitioner apart from that of a counsel is forth coming. Even as per the pleadings, the petitioner worked as an Accountant of the concern and was a Law Graduate. The proprietor of M/s Ambika Traders as per the allegations is a non-existent person. It was the petitioner who managed all IDs and documents for registration purposes.

For managing the affairs as alleged in present case, it is a well prepared and planned net which is laid down. Each and every person has a specific role to be played and in such a case one loose end left ensures that the entire net disappears. If the petitioner is clothed with protection of pre-arrest bail, the deeper probe required to unearth the scam would be defeated. The custody of petitioner is necessary as he is the only person who can disclose the persons involved and unearth the *modus operandi*.

Reliance of the petitioner on an order dated 12.11.2021 whereby the petitioner was granted ad interim anticipatory bail in FIR No. 683 dated 13.7.2019 is of no help. It would be relevant to quote the submissions made by learned counsel for the petitioner in that case:

> *"Learned counsel further submits that in the FIR, the detaails of various other firms have been given, which have misused their sales. It is further submitted that the only allegation against the petitioner is that he, being a Tax Lawyer, has helped one Deepak Jain by providing professional services in filing the returns and the petitioner in no way is directly related to any of the firms and he is not the beneficiary in any manner."*

From the above quoted paragraph, it is forthcoming that the only role alleged in that FIR was that the petitioner was a tax lawyer and provided his professional services for filing returns and was not directly related to the firms. In the present case, the factual position is different as per the allegations.

No case is made out for grant of anticipatory bail.

The petition is dismissed.

However, nothing stated above shall be taken as an expression of opinion on the merits of the case.

[AVNEESH JHINGAN]
JUDGE

20th December, 2021
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1. Whether speaking/ reasoned	:	Yes
2. Whether reportable	:	Yes