In The High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-42074-2020 (O&M)
Date of Decision:- 24.3.2021

Ajay Gupta and another … Petitioners

Versus

Central Bureau Of Investigation Bank Security
and Fraud Cell New Delhi

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. R.S.Rai, Senior Advocate with
Ms. Rubina Vermani, Advocate, for the petitioners.

Mr. Sumeet Goel, Advocate, for CBI.

(Proceedings conducted through video conferencing)

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GURVINDER SINGH GILL, J. (Oral)

1. The petitioners have approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.RCBD1/2020/E/0004, dated 10.9.2020, Police Station CBI Bank Security and Fraud Cell, CBI, Headquarter, New Delhi, under

Sections 420, 468, 467, 471, 120-B IPC read with Section 13(2) & 13(1)(D) of Prevention of Corruption Act.

2. At the time of issuance of interim directions the following order was passed on 18.12.2020:

> "The allegations in nutshell are that the petitioners are Promoters and Directors of M/s Supreme Tex Mart Ltd., which had raised a loan from Consortium Banks and that the outstanding loan was Rs.435 crores approximately. It is alleged that the accused had diverted the credit facilities through Shell companies.
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> The learned counsel for the petitioners has submitted that although the company i.e. M/s Supreme Tex Mart Ltd. Had been doing well in the initial years i.e. during the years 1996-2014 and had repaid a loan of about Rs.136.4 crores apart from paying an interest of Rs.332 crores, but it was on account of certain losses suffered during the year 2014-15 due to slump in the market, the account was declared as NPA by the Consortium Banks.
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> It has been submitted that subsequently Joint Lender Forum (JLF) of Consortium Banks monitored the transactions of the company. Insolvency proceedings were initiated by Allahabad Bank, which was one of the associate Bank of the Consortium Banks, in the year 2017 andInterim Resolution Professional (IRP) came to be appointed on 11.10.2017. It hasfurther been submitted that even after appointment of IRP in the year 2017 as well as appointment of Liquidator on 08.08.2018, the company has consistently been running in losses and in fact even after appointment of Liquidator, the company had incurred losses to the tune of Rs.176 crores, which would substantiate the case of the petitioners that the losses were occurring on account of various reasons including slump in the market, but not on account of bungling by the petitioners.

The learned State counsel has informed that the matter in fact is still under investigation and although at one stage petitioners had joined investigation, but they did not fully cooperate with the same.

Having regard to the nature of offence alleged which mainly pertains to the monetary losses stated to have occurred during running of operations of the company and while bearing in mind that the case is mainly based on documentary evidence and investigation is still incomplete, the petitioners are ordered to be released on interim bail subject to their furnishing adequate bail bonds and surety bonds, which shall be somewhere to the tune of Rs.1 crore each, to the satisfaction of Arresting/Investigating Officer. The petitioners are directed to join the investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

At this stage, learned standing counsel representing CBI submits that he has sent soft copy of the reply on the WhatsApp group. The respondent to place hard copy of the reply on record on or before the next date of hearing.

Since the State counsel has expressed apprehension that the petitioners may flee from justice, the petitioners are directed to submit their Passports to the Investigating Officer and are further directed to fully cooperate with the investigation.

List on 03.02.2021."

3. Learned counsel representing CBI has submitted that although the petitioners, pursuant to interim directions have joined investigation but there is apprehension that in case the petitioners are granted bail they may flee from justice or may tamper with the evidence. Learned

counsel has however, informed that pursuant to interim directions, the petitioners have submitted their Passports. It has further been submitted that since huge amount is involved in the instant case, no case for grant of anticipatory bail is made out.

4. Upon a query made by this Court, learned counsel representing CBI has informed that the investigation is still incomplete and inconclusive and is likely to take time.

5. I have heard the learned counsel representing the petitioners and also the learned counsel representing CBI. No doubt it is a case where colossal amount is involved, but it is yet to be determined whether the amount in question has been siphoned off by the petitioners or as to whether it is on account of genuine losses suffered by the petitioners that the same could not be repaid. In any case since the petitioners are stated to have joined investigation and have also surrendered their Passport and it is not the case of CBI that the petitioners during the course of interim bail have not cooperated or have misused the concession of interim bail, the custodial interrogation of the petitioners is not warranted. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 18.12.2020 are hereby made absolute subject to the condition that the petitioners shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

6. It is clarified that the petitioners shall not leave the country and shall continue cooperating with the investigation and shall be available as and when directed by the Investigating Officer.

March 24, 2021 **(GURVINDER SINGH GILL)**
mohan **JUDGE**

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No