

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-7202-2019 (O&M)
Date of Decision:- 12.12.2022

Kanwar Ajay Mahipal

... Petitioner

Versus

State of Haryana and another

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Jagdeep.

Mr. Ran Vijay Singh, Advocate for the complainant.

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered against him vide FIR No. 784 dated 14.9.2017 under Sections 420, 406, 506, 120-B IPC at Police Station Suraj Kund, District Faridabad.
2. The FIR was lodged at the instance of Soninder wherein it is alleged that in the year 2013, he met Girimon PT, Director, M/s Cogent Enterprises Ltd., who represented that he was an Architect from Maharashtra. The complainant engaged him for designing his house. Girimon PT represented that he was building a resort in Khandala, Maharashtra and was in dire need of ₹30 lacs and that in case the complainant pays the same to him, he (Girimon PT) will return the same with interest @ 2% per month. The complainant, being taken in by his representation, paid an amount of ₹30 lacs. However, the same was not paid back to the complainant. It is alleged

that the accused Girimon PT also borrowed his BMW car while promising to return the same within a month or to purchase it but even the said car was not returned back. Later, Girimon PT introduced the complainant to Mrs. Deepti Mahipal and said that he as well as Deepti were Directors of M/s Cogents Enterprises Ltd., and proposed to the complainant as well as to his friend Abhay Raj to invest an amount of ₹90 lacs for construction of three studio apartments in the resort and that they would pay a sum of ₹45,000/- per month as rent (₹15,000/- per month for each studio apartment) and the same were accordingly sold to the complainant and to his friend. It is further alleged therein that in the year 2014, the accused again proposed that they had two villas in their resort for sale and that in case the complainant and his friend Abhay Raj invest an amount of ₹80 lacs in the same they would be able to make profit of about ₹2.5 crores and that otherwise the accused would pay interest @ 2% per month upon the said investment. The complainant insisted on written MOU, which was accordingly prepared and the complainant as well as his friend made payment of ₹45 lacs each. However, no villas were constructed and later they came to know that the plots had been sold to one Mr. Tony Dhabavalla. Upon being confronted, Girimon PT issued two cheques but the same were dishonoured. It is further alleged that the complainant Abjay Raj were even issued threats as regards their elimination.

3. The learned counsel for the petitioner has submitted that even if all the allegations, as levelled in the FIR, are taken to be correct, it is the co-accused Girimon PT and Ms. Deepti Mahipal, who are alleged to have cheated and defrauded the complainant and his friend and that the petitioner,

who happens to be husband of Ms. Deepti Mahipal is neither named in the FIR nor any allegations have been raised against him in the FIR.

4. On the other hand, the learned State counsel, assisted by counsel for the complainant, while opposing the petition has submitted that during investigation it had surfaced that the petitioner was a share holder in the company M/s Cogent Enterprises Ltd., to the extent of 21% while his wife Deepti Mahipal was holding 30% share. It has further been submitted that as a matter of fact, even the servant of the petitioner namely Ravinder Thakur was having 1.4% share holding in the company. It has also been informed that the petitioner is a full time Director in the company ever since 9.8.2008 and thus, it is apparent that he was fully aware of all the affairs of the company and the fraud in question could not have been taken place without his active involvement and knowledge. The learned State counsel further informed that an amount of ₹43,60,000/- had been credited in the account of the company while the co-accused Girimon PT had received an amount of ₹28,24,537/- in his account and another amount of ₹14 lacs had been received by Ravinder Thakur, the servant of the petitioner and thus, the complicity of the petitioner is clearly evident. The learned State counsel has further informed that although the petitioner has joined investigation but is not fully cooperating inasmuch as he had not got recovered the amount which had been deposited by the complainant.
5. This Court has considered the rival submissions.
6. Admittedly, the petitioner is nowhere named in the FIR and nor any allegation has been levelled against him pertaining to any kind of misrepresentation held out by him to the complainant or as regards receipt of

any amount from the complainant. It is the co-accused Girimon PT and Deepti Mahipal, who are specifically named in the FIR and who are alleged to have defrauded the complainant. The mere fact that the complainant is husband of Deepti Mahipal or is Director of the company may not be sufficient to hold him responsible for misconduct of other Directors, against whom there are specific allegations in the FIR pertaining to the misrepresentation held out by them leading to the complainant having shelled out huge amount in favour of company where the petitioner is a shareholder and a Director.

7. The petitioner has already joined investigation. In these circumstances, this Court is of the opinion that it is a fit case for grant of anticipatory bail.
8. The petition, as such is accepted and the interim directions issued by this Court vide order dated 1.3.2019 are hereby made absolute, subject to the condition that the petitioner 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.

12.12.2022

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No