THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-10253-2022
Date of Decision: 01.09.2022

Himanshu Aggarwal ....Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Amaninder Preet, Advocate, for the petitioner.

Mr. Ashok Singh Chaudhary, Addl. AG, Haryana.

Mr. Rajeev Anand, Advocate, for CBI.

HARNARESH SINGH GILL, J. (Oral).

The petitioner prays for grant of regular bail in case bearing FIR No. 07 dated 21.01.2021, registered at Police Station Machhroli, District Jhajjar, under Sections 409, 420, 467, 468, 471, 201 IPC and Sections 66C, 66D of the Information Technology Act, 2000 added later on (charges framed under Sections 409, 420 and 201 IPC and Sections 66C and 66D of the IT Act).

Status report by way of affidavit dated 30.08.2022 of Deputy Superintendent of Police, Machhrauli, District Jhajjar, filed on behalf of the respondent, is taken on record.

Learned counsel for the petitioner would vehemently submit that the petitioner has been made a scapegoat and thus, points out his false implication; that as a matter of fact, as per the Operational Guidelines, governing the transactions of the Bank, the petitioner was not authorized to deal with the Debit/Credit transactions beyond Rs.20,000/-; that the transactions initiated, beyond the said amount, are approved by the senior officials of the

Bank; that it is totally unfathomable as to how the petitioner would have the access of the system of the Bank, especially when such system cannot be accessed without the biometric and passwords of the authorized employee/official and that the daily transactions reports are placed before the Bank Manager and it is only after everyday's audit, that the transactions of the Bank, are treated to have been done in a right order. It is, thus, contended that the Bank, in order to avoid and evade the liability of the actual culprits, has falsely implicated the petitioner in the FIR.

Learned counsel would refer to the cross-examination of PW1-Vedpal Saroha (complainant), to contend that even the said witness has stated that without login and password, the system of the Bank, cannot be accessed.

It is yet further argued that charges have not been framed under Sections 467, 468 or 471 IPC, which clearly establishes that no forged documents have ever been created by the petitioner.

Still further, it is argued that the petitioner has been in custody since 26.02.2021 and that in terms of the judgment of the Hon'ble Apex Court in State of Kerala Vs. Raneef, 2011(1) SCC 784, the petitioner cannot be kept in jail for an indefinite period.

On the other hand, the learned State counsel, contends that in terms of the order dated 21.09.2011 passed in CRM-M-34998-2009 –Punjab and Sind Bank Vs. State of Punjab and others, ordering transfer of the investigation to the Central Bureau of Investigation, the matter is pending approval of the Home Department, Government of Haryana and once the approval is granted, the matter would stand transferred to the CBI.

He, however, states, that the crime committed by the petitioner is a serious financial fraud with the Bank; that it is a case, where an employee of the Bank, being the trustee of the public funds, has issued duplicate/fake FDRs and transferred an amount of more than Rs.6 crore contained in the said FDRs to other accounts and even had transferred another amount of Rs.1 crore to his own account and the said amount was found to have been spent by him on the cricket betting.

Having heard learned counsel for the parties, I do not find any merit in the present petition.

The petitioner was working as a Single Window Operator-A (Clerical Post). The petitioner has been specifically named in the FIR with the allegations of having committed embezzlement of more than Rs.6 crore. As per the recovery of deposit summary and domain information of the website of the Bank, the alleged transactions were found to have been effected by the petitioner and that the petitioner had transferred an amount of Rs.1 crore to his account, which he had utilized in the cricket betting.

The citadel never falls except from within. Considering the nature of the present crime, a prudent mind would come to the conclusion that the same cannot be possible without the active connivance of an insider. It is a case, where the petitioner being the employee of the Bank, wherein innocent customers had deposited their hard earned money in an utmost good faith and trust, has breached it and by manipulation, engineered the fraud. As would appear from the prosecution version, the fraud committed by the petitioner has been established from the website domain of the

Bank. The petitioner alleges that the transaction of more than Rs.20,000/- done from or at his end, were to be approved by the higher Bank Official(s). The embezzlement is of a huge amount of more than Rs.6 crore. The crime committed by the petitioner shakes the common man's faith in the Banking system, which is considered by the people as the safe house for their live long hard earned savings.

Merely because the petitioner has been in custody for more than one year, is no ground to grant him any indulgence. The criminal bent of mind and the modus operandi of the petitioner, leaves one no option, except to think that if released on bail, he would indulge himself in similar serious crimes again.

No case is made out to grant the concession of regular bail to the petitioner.

Dismissed.

01.09.2022 **(HARNARESH SINGH GILL)**
ds **JUDGE**

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