

201 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M- 18958-2020 (O&M)

Date of Decision: 01.02.2022

Pankaj Garg

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.S. Mamli, Advocate,
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

Mr. Sandeep Goyal, Advocate,
for the Income Tax Department.

Mr. Shobit Phutela, Advocate,
for the Union of India.

(Through Video Conferencing)

HARSIMRAN SINGH SETHI J. (ORAL)

CRM-2254-2021:

Applicant/petitioner is permitted to place on record copies of the statement of Devi Prasan and order of granting him the regular bail by the learned Trial Court as Annexures P-4 and P-5, respectively.

Application stands disposed of.

CRM-M-18958-2020:

The petitioner is seeking anticipatory bail in FIR No 0353, dated 11.10.2019, under Sections 406, 420 and 34 of the IPC, registered at Police Station Bhuna, District Fatehabad.

Learned counsel for the petitioner contends that the petitioner

has joined investigation in terms of order dated 16.07.2020, passed by a co-

ordinate Bench of this Court, which is as under:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By this petition, the petitioner seeks the concession of anticipatory bail, upon FIR no.353, dated 11.10.2019, having been registered against him at Police Station Bhuna, District Fatehabad, alleging therein the commission of offences punishable under Sections 406/420/34 of the IPC.

Learned counsel for the petitioner submits that the main allegation is against the petitioners' father, to the effect that he allured the complainant into paying money at a higher rate of interest and also pressurised him to obtain loan from a bank, with that money also having been given by the complainant to the petitioner and his father.

Notice of motion.

Mr. Manish Bansal, learned DAG, Haryana, accepts notice at the asking of the court, he already having received a copy of the petition in advance.

He submits that the petitioner and his father having duped the complainant of a large amount of money in the aforesaid manner, he does not deserve the concession of anticipatory bail.

He however submits that the money having been withdrawn from the bank and thereafter alleged to have been given to the petitioner and his father, it is to be determined as to in whose name the cheques were issued.

He therefore submits that the petitioner is at least required to join investigation.

Mr. Amit Chauthary, learned counsel appearing for the complainant, however submits that the petitioner and his father having duped the complainant of a large

amount of money, he does not deserve the concession of anticipatory bail.

Upon query to him by this court as to whether the complainant is even likely to succeed in a civil suit with regard to the money having been allegedly given to the accused on the promise of large returns, he obviously does not express any firm opinion on that question.

Be that as it may, since at this stage at least there is no firm proof of any money actually having been handed over to the petitioner and possibly the main allegation being against his father, without making any comment whatsoever on the merits of the case, the petitioner is directed to join investigation and upon him so joining if he is sought to be arrested, he shall be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the investigating officer does not actually join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this Court.

Adjourned to 19.8.2020.

In the meanwhile, the Superintendent of Police, Fatehabad, is directed to have the matter enquired into and the affidavit of a gazetted officer filed with regard to the investigation carried out including inquiry from the bank(s) from which the loan was obtained and from where the money was alleged to have been withdrawn (to be given to the petitioner and his father as alleged), and as to who actually withdrew the money and in whose names the cheques were issued.”

through video conferencing, on instructions from SI Mahinder Singh, states that in terms of the order of co-ordinate Bench of this Court reproduced before, the petitioner has joined the investigation and no further interrogation is required at this stage.

Learned counsel for the petitioner undertakes that petitioner will join investigation and also cooperate with the investigating agency in case he is required for the same in future as well.

In view of the above, the order dated 16.07.2020 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join investigation as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that petitioner is required for the investigation but is not cooperating, they shall be at liberty to approach this Court for passing appropriate orders.

However, a co-ordinate Bench of this Court vide order dated 19.08.2020 had issued notice to the complainant as well so as to ascertain whether any provisions of the Income Tax Act, 1961, was violated keeping in view the allegations alleged in the present case.

Learned State counsel submits that though various letters have been issued to the Income Tax authorities but the same have not been replied by them and hence the State is not in a position to apprise this Court as to whether any violation of the Income Tax Act, 1961, exists in the present case or not.

Learned counsel appearing on behalf of the Union of India and

Income Tax Department submit that appropriate consideration will be given on this aspect by the Department and if any action is needed, keeping in view the facts and circumstances of this case, the same will also be undertaken by the concerned authorities without any further delay.

Let the said consideration reach finality about forming an opinion and initiation of any action if needed within a period of two months from today and the same be infomed to this Court as well.

Thus keeping in view the above, no further orders are called for.

The present petition is disposed of in the above terms.

01.02.2022

Apurva

(HARSIMRAN SINGH SETHI)
JUDGE

1. Whether speaking/reasoned: Yes

2. Whether reportable: No