IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-4123-2023 (O&M)
Date of Decision:- 1.2.2023

Kamal Sharma … Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Pooja Jaglan, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

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GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered vide FIR No. 109 dated 8.2.2022 under Sections 409, 34, 120-B IPC (Sections 420, 467, 468, 471, 201 IPC and Section 13 of the Prevention of Corruption Act, 1988 added later on) at Police Station Samalkha, District Panipat (Haryana).

2. The FIR was registered at the instance of complainant Suresh Kumar wherein he alleged that he had friendship with Ajay Sharma and Kamal Sharma (petitioner) who assured him of getting a loan from State Bank of India. The complainant alleged that though in the month of November, 2021, an amount of Rs. 3,78,200/- was credited in his bank account but he was told by Ajay Sharma and Kamal Sharma that the same had been credited by mistake and the complainant, believing them, returned the said amount to the accused through *PhonePe* and cash. Later, when the complainant made inquiries from the Bank, it surfaced that no loan had ever been sanctioned in his favour. It also came to be known that Pawan Sharma, brother-in-law of

Ajay Sharma, was working as a Driver with Raghav Wadhawan, who is a Clerk serving in UHBVN and that Ajay Sharma, Kamal Sharma, Pawan Sharma and Raghav Wadhawan had embezzled huge amounts of UHBVN, which they had got credited in the accounts of their known persons and had later got the same withdrawn from such persons.

3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that there is no evidence worth credence to connect him with the alleged embezzlement. It has further been submitted that it is Pawan Sharma and Raghav Wadhawan, who are working in UHBVN, from where the amount is alleged to have been siphoned off and as such, it is the said accused who, at best, could be held responsible for the same.

4. Reply has been filed by the respondent-State, which is taken on record.

5. Opposing the petition, the learned State counsel has submitted that apart from the allegations levelled in the FIR, the police during the course of investigation has collected sufficient evidence to show that the petitioner was fully involved in the scam. It has been pointed out that the real brother of the petitioner i.e. Ajay Sharma had already been arrested and during the course of his disclosure statement, he has specifically stated about the involvement of his brother Kamal Sharma inasmuch as he had asked Kamal Sharma to make bank accounts available for the purpose of deposit of the amount embezzled from the UHBVN by co-accused. The learned State counsel has further informed that record pertaining to transfer of amount by the complainant to the account of the petitioner has also been collected which also shows that several transactions have been made therein. He

further disclosed that the amount embezzled was in the shape of dues pertaining to gratuity of some retired employees of UHBVN which his brother-in-law Pawan Sharma, Raghav Wadhawan alongwith other employees of UHBVN siphoned off from the accounts of such retired persons. While furnishing the details of various dubious transactions, he disclosed that an amount of Rs. 3,78,200/- had been deposited fraudulently in the bank account of complainant Suresh Kumar in November, 2021.

5. The learned State counsel has further drawn the attention of this Court to the statement of account of Suresh Kumar, annexed with reply as Annexure R-3, which shows that an amount of Rs. 3,78,200/- was deposited in his bank account on 25.11.2021.

6. This Court has considered the rival submissions.

7. The petitioner is specifically named in the FIR. During the course of investigation, the disclosure statement of petitioner's real brother has been recorded, which has been referred to above, which clearly inculpates the petitioner. Still, further, the investigating agency during the course of investigation has collected the details of transactions made by the complainant Suresh Kumar through his phone which shows that the following transactions had been made pertaining to transfer of amount by the complainant to the account of the petitioner :-

S.No.	Date	Amount
1	26 November, 2021	49,999
2	26 November, 2021	49,000
3	27 November, 2021	45,000
4	27 November, 2021	40,000
5	28 November, 2021	15,000
6	28 November, 2021	40,000
7	29 November, 2021	24,000

8. In the aforesaid transactions, in some of them, the name of the petitioner Kamal Sharma is mentioned while in some his Phone number i.e. 87082-16055 is mentioned.

9. In view of the aforestated position, the complicity of the petitioner is clearly evident. As such, his custodial interrogation would be required to unearth the finer details and also the involvement of other accused and more transactions.

10. There is no merit in this petition and the same is hereby dismissed.

1.2.2023 **(Gurvinder Singh Gill)**
kamal **Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No