

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-26984-2022 (O & M)

Date of decision: 23.02.2023

Umesh Ambika Prasad Mishra

..... Petitioner

V/s

State of Punjab and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Anmol Rattan Sidhu, Sr. Advocate,
with Mr. Harlove Singh Rajput, Advocate,
for the petitioners.

Ms. Navreet Kaur Barnala, AAG, Punjab.

Mr. Gautam Bhardwaj, Advocate,
for respondent No.2.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.50 dated 04.02.2022 under Sections 379, 380, 406, 420 and 120-B IPC at Police Station Dera Bassi, District SAS Nagar (Annexure P-1).

2. On 23.08.2022, the following order was passed in this case:-

“Learned counsel for the petitioner submits that it is a case where false allegations have been levelled against the petitioner.

As per the case of prosecution, the petitioner had initially taken the company i.e. M/s Aster Drugs and Pharmaceuticals Limited Company, on lease from its Director Amarjit Singh Bhatia in the year 2013 and had later also entered into an

agreement for purchase of the said company. Pursuant to the said agreement, the petitioner was inducted as a Director on 13.9.2014.

The allegations are further to the effect that the petitioner had made an attempt to raise a loan of Rs. 19 crores from Canara Bank by way of concealing material facts and by way of pledging property which already stood pledged with some other bank i.e. IDBI and PSIDC and by also misrepresenting that Manjit Pathak was the Director and by furnishing fake addresses so as to avoid detection of the fact that the property already stood pledged, but was unsuccessful in raising the said loan.

The learned counsel has submitted that infact there is no such document to show that the petitioner had ever applied for any such loan or had ever opened any bank account for the purpose of taking such loan.

The learned counsel has further submitted that though another allegation is to the effect that the petitioner had removed machinery from the factory premises worth about Rs. 55 lacs whereas in fact it is a case where the property had got damaged due to flooding of water and in respect of which DDR was lodged and regarding which there is a reference in the annual report for the Financial Year 2013-2014 (Annexure P-9).

The learned counsel further submitted that in any case the petitioner has made the entire payment in respect of purchase of the company i.e. M/s Aster Drugs and Pharmaceuticals Limited Company.

Keeping in view the aforesaid submission, this Court deems appropriate that the petitioner joins the investigation and furnishes complete information to the Investigating Officer. The petitioner, as such, is directed to appear before the Investigating Officer on 21.9.2022 and on any other date as directed by the Investigating Officer and to furnish complete

information, as may be desired by the Investigating Officer.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer.

The petitioner is directed to implead the complainant as a party within 2 weeks from today.

Adjourned to 30.11.2022”.

3. Thereafter, on 27.01.2023, the following order was passed:-

“There is a dispute as to whether the machinery affixed on the premises at the instance of the lessor has been stolen by the petitioner and others. It would be appropriate if the S.H.O. Police Station Dera Bassi, District SAS Nagar, the Drug Inspector, SAS NagarII and Mr. A.P. Kaushal, Advocate visit the premises along with the complainant so as to able to ascertain as to whether the machinery is still present at the spot as per the Evaluation Report.

The petitioner or his representative shall also be present at the time of the examination of the premises.

In view of the above, the S.H.O. Police Station Dera Bassi, District SAS Nagar, the Drug Inspector, SAS Nagar-II and Mr. A.P. Kaushal, Advocate shall visit the premises on 30.01.2023 at 03.00 PM.

A report be submitted by Mr. A.P. Kaushal, Advocate on the next date of hearing.

List on 03.02.2023 for further consideration.

A payment of Rs.25,000/- plus travel allowance of Rs.5000/- shall be paid to Mr. A.P. Kaushal, Advocate to be shared equally between the petitioner and the complainant”.

4. Pursuant thereto, Mr. A.P. Kaushal, Advocate, visited the

As per the report, production units I and II had been demolished. Some machinery had been scrapped and some had been admitted to have been sold by the petitioner. Some buildings had been demolished and building material was missing. The building of the Utilities Block was found missing alongwith the machinery installed. Some part of the Effluent Treatment Plant had been dismantled.

5. The petitioner and the complainant have filed their respective responses to the report of the Local Commissioner.

6. The learned Senior counsel for the petitioner while referring to the Valuation Report dated 24.01.2013 (Annexure P-9) contends that the conditions of the building were unsafe due to fire and poor maintenance. Due to rain water entering the premises, there had been damage to the machinery and building. An FIR had been lodged in that regard and the whole matter had been reported to the D.C. Mohali, the operating agency IDBI, etc. For raising the level by 4-5 feet, the whole plant and buildings were to be dismantled and redesigned, for which crores of rupees were required. The expenses were to be borne by the petitioner who had spent a huge sum of money to modernize the factory and repair/reconstruct the different parts of the same. Since the company had been modernized, a sum of Rs.3.92 crores had been spent on the same. The entire expense had been borne by the petitioner. Due to the fresh infusion of funds, the cash in hand, etc. had also increased. Some of that increase was on account of sale of scrap. He, thus, contends that since the petitioner had joined the investigation and had satisfactorily explained that no unexplained demolition

had actually taken place and the factory machines etc. had been accounted for, he was entitled to the grant of anticipatory bail.

7. The learned counsel for the complainant and the complainant in person have vehemently opposed the bail application contending that the theft of plant and machinery had indeed taken place. In addition, the petitioner had attempted to take a loan on fake documents. Merely because the petitioner had joined the investigation, did not entitle him to the grant of anticipatory bail. Even otherwise, a case for custodial interrogation was certainly made out.

8. The learned counsel for the State, on the other hand, contends that though the petitioner has joined investigation, the serious nature of the allegations did not entitle him to the grant of anticipatory bail as the police investigation had found that theft had taken place at the factory premises.

9. I have heard the learned counsel for the parties at length.

10. Various allegations and counter-allegations have been levelled regarding theft of plant, machinery, etc. and demolition of various buildings within the premises. While the petitioner has attempted to explain the same in reference to the Valuation Report (Annexure P-9), the complainant has given his own explanations, firstly, in the FIR and thereafter in response to the Inspection Report of the Local Commissioner. Be that as it may, the veracity of the allegations levelled shall be established during the course of the Trial.

11. Therefore, without getting into the rival contentions of either party, at this stage, in my opinion, no case for custodial interrogation is made out. Therefore, the interim order dated 23.08.2022 is made absolute.

12. However, the petitioner shall keep on joining the investigation as and when required to do so and he shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.
13. This order shall not, however, be construed as a bar for authorities such as the Enforcement Directorate, Income Tax authorities etc. to continue with the investigation, if any, on any complaint initiated by the present complainant or anyone else.
14. It is made clear that this Court has expressed no opinion whatsoever on the merits of the case and the observations made in this order are only for the purposes of deciding the present petition for anticipatory bail. The Trial Court is free to adjudicate upon the matter on the basis of the evidence led before it uninfluenced by any observations made hereinabove.
15. The petition stands disposed of.

February 23, 2023
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

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