

101 (1st case)

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

CRM-M-35991-2022 (O&M)

Date of decision : 03.10.2023

Sanjay Gambhir

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Gautam Dutt, Advocate,
for the petitioner.

Mr. Jaiteshwar S. Bhandari, AAG, Punjab.

Mr. H.S. Randhawa, Advocate,
for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.459 dated 23.12.2021, under Sections 420, 406, 465, 467, 468, 471 & 120-B of the Indian Penal Code, 1860 (for short, '*the IPC*'), registered at Police Station Sohana, District SAS Nagar (Mohali).

2. Above FIR was registered on the basis of statement made by complainant-Baldev Chand Bansal, alleging that he (complainant), as well as his family members, were Share-holders (to the extent of 95.05%) and Directors of the company, namely, M/s Renaissance Buildcon Company Pvt. Ltd. (for short, '*the Company*'). However,

petitioner along with other co-accused, forged the resignation dated 14.01.2021 of complainant and his family members, namely, Tarjinder Kumar Bansal & Krishna Devi; and on the basis thereof, passed a false resolution of even date, removing them from the directorship of Company. In this regard, FIR No.151 dated 05.10.2021, under Sections 406, 420 & 120-B of the IPC has already been registered by Economic Offences Wing, New Delhi. Furthermore, after deleting the names of complainant and his family members from the Board of Directors in an illegal manner, the accused sold out land owned by the Company at Village Kurdi, SAS Nagar (Mohali), measuring 02 Bighas, in favour of Gurwinder Singh and Kulwinder Singh, vide sale deed dated 06.04.2021.

CONTENTIONS

3. On behalf of Petitioner:

3.1 Contends that in terms of the order dated 23.08.2022, petitioner has already joined investigation and his custodial interrogation is not required.

3.2 Further contends that dispute is entirely commercial in nature and which is already *subjudice* before National Company Law Tribunal, New Delhi.

3.3 Still further contends that another FIR No.151 dated 05.10.2021 was got registered by the complainant with similar allegations at Economic Offences Wing, New Delhi; therefore, present one is nothing, but misuse of the process of law, in connivance with the Police Officials.

3.4 Also contended that complainant side at their own gave their resignation letter(s) to Chartered Accountant of the Company, namely, Sh. Sanjeev Garg, who further handed over the same to petitioner, hence no criminal action is warranted.

4. On behalf of State:

4.1 Learned State counsel, while opposing the prayer, submitted that during investigation, Sh. Sanjeev Garg, C.A. was duly associated by the Investigating Officer to verify the authenticity of resignation letter(s) dated 14.01.2021, but he completely denied the same; rather specifically stated that no such resignation letter(s) were ever received by him from the complainant or his family members.

4.2 Further submitted that aforesaid C.A. never handed over the photocopy of alleged resignation letter(s) dated 14.01.2021 to the petitioner; therefore, to unearth the source from which it was procured by the petitioner, his custodial interrogation is very much necessary.

4.3 Lastly submitted that despite repeated asking about the original resignation letter(s), petitioner is not cooperating with the Investigating Officer; hence misusing the interim protection on the premise that photocopy of the resignation letter(s) were received from Sh. Sanjeev Garg, C.A.

5. On behalf of Complainant:

5.1 Learned counsel for the complainant also submits that alleged resignation letter(s) were never signed and/or tendered by him or his family members; nor were ever given to the Chartered Accountant; rather forged by the petitioner in connivance with other co-accused.

5.2 Further submits that on the basis of forged resignation letter(s), petitioner has transferred all the shares of complainant as well as his family members; ousted them from the company and sold the property worth Crores of Rupees, thereby committing the serious offences warranting deterrent action.

6. Heard learned counsel for the parties and perused the paper-book.

7. It transpires that Coordinate Bench, on 23.08.2022, granted interim pre-arrest bail to petitioner and relevant part of the order reads as under:-

“Prayer is for grant of anticipatory bail in case having FIR No.459 dated 23.12.2021 registered under Sections 420, 406, 465, 467, 468 & 471 read with Section 120-B, at Police Station Sohana District SAS Nagar.

The counsel for the petitioner submits that the entire dispute between the parties is of commercial nature. That the complainant namely Baldev Chand Bansal (M/s Black Stone Infracon Pvt. Ltd.) filed petition (Annexure P-33) before National Company Law Tribunal (in short ‘NCLT’, New Delhi Bench in March, 2021 to declare that the alleged resignation letters dated 14.1.2021 of Baldev Chand Bansal, Tejinder Kumar Bansal and Krishna Devi from the post of Directorship of M/s Renaissance Buildcon Company Pvt. Ltd. as illegal, null-&-void and further the decision taken or resolution passed in absence of the aforesaid persons by the board of directors of M/s Renaissance Buildcon Company Pvt. Ltd. as null-&-void and that the present petitioner and other persons are guilty of grave oppression and mis-management of the aforesaid company.

The counsel for the petitioner further submits that after the filing of the aforesaid petition, FIR No.151 dated 5.10.2021 (Annexure P-3) was registered against the petitioner and other accused persons under Sections 406, 420, 120B IPC in Police Station Economic Wing at New Delhi on the basis of the complaint lodged by M/s Black Stone Infracon Pvt. Ltd. through Tejinder Kumar Bansal and other persons including Baldev Chand Bansal

with regard to the same allegations which were levelled in petition (Annexure P-33). The counsel for the petitioner further submitted that in FIR (Annexure P-3), there are specific allegations that the petitioner along with other accused prepared forged resignation letters of Baldev Chand Bansal, Tejinder Kumar Bansal and Krishna Devi and the said matter with regard to forgery is being investigated by the police of concerned Police Station of New Delhi.

The counsel for the petitioner further submits that on 23.12.2021 FIR No.459 (Annexure P-1) has been registered against the petitioner and other accused persons under Sections 406, 420, 120-B IPC in Police Station Sohana, District SAS Nagar with regard to unauthorized sale of 2 Bighas of land by the accused persons including the petitioner vide registered sale-deed dated 6.4.2021. The counsel for the petitioner further submitted that as far as the allegations of forgery are concerned, the said component/offence is covered in FIR (Annexure P-3). That this fact is also established from the perusal of the reply submitted on behalf of the State in a petition filed by the present petitioner with regard to quashing of FIR (Annexure P-1). Para No.7 of the said reply (Annexure P-4) reads a (sic, as) follows:-

“In response to the same, it is most humbly submitted that the offences covered in both the FIR No.151 (supra) are separate cause of action and thus cannot be treated as “part of the same transaction”. In fact the territorial jurisdiction of the earlier FIR No.151 (supra) would call in the State of NCT of Delhi, since Renaissance Buildcon Co. Pvt. Ltd. has its registered offence at Delhi and the act of resolution dated 14.01.2021 on the basis of fabricated resignation letter took place in the area of Delhi. While the cause of action for the present FIR No.459 (supra) took place in the area of Police Station Sohna, District SAS Nagar (Mohali), where land is situated, which was transferred by the accused without any legal authority on the basis of fictitious ownership, therefore, the law relied upon by the petitioners has no application to the fact and circumstances of the present case as the offence forming part of the present case/FIR No.459 (supra) does not arise as a consequence of the 1st FIR No.151 (supra) and could not have been treated as part of 1st FIR on the ground of jurisdiction as well, all the offences are to be tried in the local area where the offences are committed as per the

*provisions of Sections 177/178 Cr.P.C. as has been laid down by the Hon'ble Supreme Court in the ratio on interpretation and applicability of Sections 177/178 Cr.P.C. in the case titled **Y. Abraham Ajith Versus Inspector of Police, Chennai, 2004 SCC(CrL) 2134.***

The counsel for the petitioner also referred to order (Annexure P-35) wherein notice of motion was issued in aforesaid quashing petition by Co-ordinate Bench of this Court whereby further proceedings beyond the stage of cognizance were ordered to be stayed in FIR (Annexure P-1).

The counsel for the petitioner further submits that the petitioner was not signatory to the sale-deed in question dated 6.4.2021. The counsel for the petitioner further submits that the petitioner was granted interim bail by the Court of learned Additional Sessions Judge vide order dated 8.7.2022 (Annexure P-31), but finally the bail application qua the present petitioner was dismissed while qua his son was allowed by the said Court vide order dated 5.8.2022 (Annexure P-2). The counsel for the petitioner while referring to the aforesaid order (Annexure P-2) submits that Karan Gambhir son of the petitioner, who signed the sale deed in question has been granted concession of anticipatory bail on the ground that he executed the said sale-deed being authorized person of M/s Renaissance Buildcon Company Pvt. Ltd. The counsel for the petitioner further submits that in case the petitioner is required by the police for any further investigation then he is ready to do so.

The State counsel submits that the petitioner is facing grave allegations that he and other accused persons forged the resignation letters of Baldev Chand Bansal, Tejinder Kumar Bansal and Krishan Devi and further sold 2 Bighas of land belonging to M/s Renaissance Buildcon Company Pvt. Ltd. at through away price. The State counsel further submits that the custody of the petitioner is required for proper investigation of this case.

The counsel appearing on behalf of the complainant submits that FIR (Annexure P-3) registered at New Delhi is not relating to forgery of the resignation letters of Baldev Chand Bansal, Tejinder Kumar Bansal and Krishna Devi. The counsel for the petitioner further submits that even if the Delhi Police is also investigating offences relating to forgery, the Punjab Police is not barred to investigate the same matter in FIR (Annexure P-1) in the light of provisions of Section 186 Cr.P.C. The counsel for the complainant

further submitted that offence under Section 465, 467, 468 and 471 IPC have been added in FIR Annexure P-1 vide DDR No.3 dated 27.12.2021. So the local police of SAS Nagar Mohali has got jurisdiction to investigate with regard to forged resignation letters of Baldev Chand Bansal, Tejinder Kumar Bansal and Krishna Devi. The counsel for the complainant also referred to one affidavit of Sanjeev Garg dated 31.3.2021 which was submitted to NCLT, in which it is categorical stated that he has never received any resignations of Baldev Chand Bansal or Tejinder Kumar Bansal or Krishna Devi as Directors of the Company.

The counsel for the petitioner further submits that there was clear intention on the part of the petitioner and other accused persons to cheat the complainant as prior to the sale-deed in question, M/s Renaissance Buildcon Company Pvt. Ltd. sold the adjoining land belonging to it at much higher rate vide sale deed dated 28.10.2020, whose copy is taken on record. The counsel for the complainant further submits that the petitioner is having criminal history and he has been declared as proclaimed offender (person) in the criminal complaints filed against him under Section 138 NI Act. The counsel for the complainant further submits that the FIR (Annexure P-1) is based on totally different cause of action and there are serious allegations against the petitioner and other accused persons that they committed forgery by fabricating resignation letters dated 14.1.2021 of Baldev Chand Bansal, Tejinder Kumar Bansal and Krishna Devi. The counsel for the complainant further submits that the petitioner is not entitled to get concession of discretionary relief of anticipatory bail.

The counsel for the petitioner has refuted the allegations that the petitioner has been declared as proclaimed offender (person) in any criminal case till date.

I have considered the submissions made by the counsel for the parties.

Admittedly the petitioner was not signatory to the sale deed in question dated 6.4.2021 relating to sale of 2 Bighas of land and rather the said sale-deed was signed by co-accused Karan Gambhir, who is son of the present petitioner and has been granted anticipatory bail by the Court of Additional Sessions Judge, SAS Nagar Mohali vide Annexure P-2.

From the perusal of Annexure P-3, it appears that prior to lodging of FIR (Annexure P-1) one another FIR (Annexure P-3) was

lodged at New Delhi by the complainant against the petitioner and other accused persons. Even in the said FIR there are allegations that Sanjay Gambhir (petitioner) along with other accused persons not only falsely published, the false and fake information about the complainants but also prepared forged resignation letters of Baldev Chand Bansal, Tejinder Kumar Bansal and Krishna Devi and acted dishonestly so as to cheat the complainant and public at large by forging signatures of aforesaid three persons on the resignation letters. The issue regarding illegality of the aforesaid resignation is also pending before NCLT as is evident from Annexure P-33. Further the entire case appears to be based on the documentary evidence.

In view of the above, in case of arrest, the petitioner is directed to be released on interim bail by the Investigating Officer/Arresting Officer subject to his own satisfaction till the next date of hearing. The petitioner should join investigation with the police on 2.9.2022, 28.9.2022 and to abide by the conditions envisaged under Section 438 (2) Cr.P.C.

The report of the Investigating Officer be also called in this context on the next date of hearing.

*Now be listed on **17.10.2022.**"*

8. It is also not in dispute that above order has been extended from time to time and continuing till date.

9. It is specific case of the prosecution that alleged resignation letter(s) were never signed or submitted by the complainant and/or his family members; rather forged by the petitioner in connivance with other co-accused. Although, it is claimed by the petitioner that photocopy of resignation letter(s) was received by him from Sh. Sanjeev Garg, C.A., but the latter has completely disowned the same and stated before the Investigating Officer that he has neither received such letter(s) from the complainant; nor from his family members; thus, there is no question of handing over the same to petitioner.

10. No doubt, the petitioner was granted interim protection which is continuing till date, but his repeated version before the Investigating Officer is that the resignation letter(s) of the complainant as well as his family members were handed over to him by Sh. Sanjeev Garg, C.A, but the same is found to be not convincing by the Police, at this stage. In such a scenario, this Court feels that to find out the truth behind procuring the alleged photocopy of resignation letter(s), custodial interrogation of the petitioner would be the only way out.

11. As a result thereof, there is no option except to dismiss the petition.

12. Ordered accordingly.

13. Needless to say that interim protection granted to the petitioner vide order dated 23.08.2022 and extended subsequently, shall come to an end, automatically.

14. Also clarified that observations made above shall not be construed as an expression of opinion on merits of the controversy, in any manner.

15. Pending application(s), if any, shall also stand disposed off.

03.10.2023

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(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking / reasoned :</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable :</i>	<i>Yes</i>	<i>No</i>