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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-39805-2023 (O&M)
Date of decision: August 21, 2023

Rammi Jain

….Petitioner

versus

State of Haryana

….Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Amit Jhanji, Senior Advocate with
Mr. Viraj Gandhi, Advocate for petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

Mr. Himmat Singh Sidhu, Advocate for complainant.

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ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.130 dated 11.04.2022, registered under Sections 420/ 467/ 468/ 471/ 477A and 120Bof the Indian Penal Code, 1860 (for short 'IPC'), at Police Station, Sector 53, Gurugram.

2. According to the FIR/prosecution's version, complainant is a company engaged in the business of manufacturing and selling earth-moving and construction equipment and parts thereof. Whereas, Umesh Chander& Company (UCC), is a limited liability partnership firm engaged in providing payroll services to various entities, including the complainant's company, since the year 2008. In order to perform the payroll-related services, UCC and its employees were granted/conferred with certain System Applications and Products rights (hereinafter referred to as 'SAP').Rammi Jain, the petitioner, is an employee of UCC and had been working on the complainant's account since 2009. He had access to SAP and the ID granted by the complainant to UCC. The petitioner possessed knowledge and understanding of the process/protocol implemented by the complainant for salary payments.During internal audits conducted by the complainant's auditors, various discrepancies were noticed, and some serious anomalies with financial implications in payroll processing involving accused UCC were highlighted. The initial investigation into these discrepancies revealed that the SAP-IDs

given to accused UCC were being used by its employees, including the petitioner. The petitioner activated certain dormant accounts linked to 44 separate numbers and credited unauthorized amounts into 4 fraudulent bank accounts. Unauthorised transactions on the SAP system were carried out by employees/partners of UCC, including the petitioner.The accused individuals, with deliberate and dishonest intentions, switched the bank account numbers linked to the aforementioned dormant accounts. This deceptive action led the complainant to inadvertently credit unauthorized amounts into the fraudulent bank accounts, resulting in unlawful gains for the beneficiaries of these fraudulent bank accounts and caused wrongful loss to the complainant company. This is how the petitioner cheated the complainant company of Rs. 7,22,79,308/-.An FIR was registered.Petitioner was arrested on 06.09.2022 and is in custody ever since.

3. Learned Senior counsel for the petitioner states that petitioner joined M/s UCC on 08.05.2008 as Payroll Executive and was working under the supervision of Sunita Umesh, who is Key Managerial Personnel and partner of M/s UCC as well. Petitioner is not having any master rights of the System Applications (SAP) software with regard to complainant's account. Petitioner has falsely been implicated by his employers finding him easy target for them to hide their own misdeeds. After filing of FIR, petitioner joined investigation on multiple occasions and also provided various documents as and when required by them. There is nothing to show that petitioner did not cooperate with investigation or he tried to tamper with witnesses or destroy any evidence.

3.1. Learned senior urges that nothing is to be recovered from the petitioner and no useful purpose would be served by keeping him behind bars.

4. On the other hand, learned State counselon instructions from ASI Joginder,as well as learned counsel for complainant, oppose the petition and submit that petitioner has committed a serious offence.Complainant company has been put to a huge loss by the petitioner. If enlarged on bail, there is every likelihood that he will commit similar offence and/or will flee from trial, and he might tamper with evidence or influence/ intimidate the witnesses. He though admits that there is no other case against the petitioner.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. Allegations against petitioner are a matter of trial at this stage.On a Court query, learned state counsel informs that challan has been presented and charges were framed on 02.03.2023.Investigation *qua* petitioner is complete, he is thus not required for custodial interrogation. Out of total 22 prosecution witnesses, only 2 have been examined so far. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been languishing in jail for the past more than 11months in preventive custody, being behind bars since 06.09.2022.

7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

8. It is stated that petitioner is41-year old person having wife and one minor child who are living in sheer penuryin his absence. He has added responsibilities of his old age parents, father having 68-year and mother-67 year old. It is also stated that due to his incarceration, petitioner has lost his livelihood and his further detention may render him jobless forever.Being family manand having fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

9. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

10. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be. Apart from other conditions, which may be imposed by the learned Court below, petitioner shall submit list of all his movable and immovable assets including all the bank accounts before learned trial Court. He shall undertake that during pendency of trial, he will not sell any immovable asset.

That apart, 4 bank accounts, alleged to have been used to stealthily siphon off the company's funds, shall remain frozen during pendency of trial.

11. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.

12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 21, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No