IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-43833-2023
Date of Decision:13.09.2023

Yogesh Babbar

. . . . Petitioner

Vs.

State of Haryana

. . . . Respondent

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

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Present: - Ms. Anju Bansal, Advocate, for the petitioner.

Mr.P.K. Aggarwal, DAG, Haryana.

Ms. Smrit Gill, Advocate, for
Mr. Shivoy Dhir, Advocate, for the complainant.

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DEEPAK GUPTA, J.

Status report by way of affidavit of Sh. Gaurav Sharma, HPS, Deputy Superintendent of Police, Barwala, Hisar is filed today in Court and the same is taken on record.

Memo of appearance filed on behalf of the complainant is also taken on record.

By way of this petition filed under Section 438 CrPC, petitioner prays for grant of anticipatory bail in case FIR No.591 dated 17.07.2023 registered at Police Station, Barwala, Hisar, under Sections 409, 420, 467, 468 and 471 IPC.

2. FIR was lodged on the complaint of Shankar, Manager of Axis Bank, Barwala, stating therein that one Somnath is maintaining two Agri Overdraft accounts in their bank. Said Somnath alleged that someone had withdrawn an amount of ₹27.04 lakh from his OD accounts after using five

cheques unauthorizedly, as he had never issued any such cheques to any person. He also reported that ₹4 lakh were given in cash to Yogesh Babbar (petitioner) to deposit in one of his OD account, but the same was not deposited. It was further alleged in the complaint that on inquiry, it was found that three cash withdrawals aggregating ₹11.64 lakhs were made without any debit mandate and the same were entered using cheque numbers 25, 99 and 100 for cash payments of different amounts on different dates, though it was reported by the customer that he was still holding the above mentioned cheque leaves unused with him. Sahil Kalra (co-accused), the Teller of the Bank, confessed in writing that he had inputted the above said three transactions without cheques on the assurance of his supervisor-Yogesh Babbar (petitioner) that the related cheques will be provided later on, but the same were never provided. It was further alleged that two other disputed cash payments of ₹9.90 lakh and ₹5.50 lakh were made on 04.11.2022 and 07.10.2022 by using cheque Nos. 14 & 15, which were properly drawn and duly signed by the drawer on the face of the instruments, but these cheques were not signed by the drawer on the reverse of the cheques nor there was any acknowledgment by receiver of the cash on the reverse of these cheques and there was no evidence that cash payment had ever been made to the customer. Complainant alleged that petitioner and co-accused Sahil Kalra were involved in these illegal cash payments.

3. (i) It is contended by Ld. Counsel for the petitioner that there is no allegation in the FIR as to in which year, month or date, the five unauthorized cash withdrawals totalling ₹27.04 lakh took place and on which date the alleged amount of ₹4 lakh in cash was given to the

petitioner. It is further contended that no complaint was made by customer Somnath.

(ii) Ld. counsel contends that in fact petitioner was posted as Assistant Manager in the Bank and he had followed all the instructions and guidelines of the bank and no complaint was ever made against him. It is also contended that there is delay in lodging of the FIR, which is unexplained and that petitioner is ready to join investigation and so, he be allowed anticipatory bail.

4. (i) Strongly opposing the bail petition, ld. State counsel along with counsel for the complainant pointed out towards the status report, as per which, during investigation, statement of victim Somnath was recorded, who handed over original cheque Nos.99 & 100 of one of his accounts and original cheque No.25 of another account, besides original bank cash deposit of ₹4 lakh. Statement of Suresh, the Assistant Manager of the Bank was also recorded, who handed over the original cheque Nos.14 & 15, beside bank statements and all these revealed the unauthorized transactions, which have been confirmed by co-accused Sahil Kalra in his confessional statement.

(ii) Ld. State counsel submits that there is strong evidence against the petitioner and recovery of ₹31.04 lakh is to be effected from the petitioner, which he gained by way of fraud and for that purpose, his custodial interrogation is required.

5. Having heard ld. counsel for both the sides and considering the role directly attributed to the petitioner, this Court is of the view that custodial interrogation of the petitioner may be necessary to carry out the

investigation. This is not a fit case to exercise the discretion of granting anticipatory bail.

Dismissed.

(DEEPAK GUPTA)
JUDGE

13.09.2023
Vivek

1. Whether speaking/reasoned? ***Yes**/No*
2. Whether reportable? *Yes/No*