IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-12310-2024 (O&M)
Date of Decision: 22.03.2024

Sanjeev Kumar Sharma @ Sanjeev Kumar
….Petitioner

Versus

State of Punjab ….Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Narinder Lucky, Advocate,
counsel for the petitioner.

Ms. Manjot Kaur, AAG, Punjab assisted by
Sh. Varinder Singh Khosa, Assistant Commissioner of Police.

MAHABIR SINGH SINDHU.(J.)

Present second petition has been filed under Section 438 of Code of Criminal Procedure, 1973 for seeking pre-arrest bail in FIR No. 132 dated 19.06.2023 registered under Sections 420, 465, 467, 468, 471 & 120-B of Indian Penal Code, at Police Station, Civil Lines, District Amritsar.

2. Above FIR was registered on the basis of written information given by Mandeep Singh, Manager (Recovery), Kotak Mahindra Bank, GT Road, Jalandhar with the allegations that Jagmeet Singh son of Balwinder Singh and Balwinder Singh son of Sardul Singh have committed fraud of Rs.1.50 crore. Both the accused obtained bank loan for purchasing 04 heavy vehicles (Tata 3118 SPT) on 30.12.2022 and they were handed over the possession thereof, but did not get the vehicles hypothecated; rather disposed off the vehicle(s) in unknown manner(s).

3. Learned counsel for the petitioner contends that he is not named in the FIR; rather nominated on the basis of disclosure made by co-accused Jagmeet Singh merely on the assumption that he was working as manager with Cargo Motors. Further contended that petitioner has no role in the alleged commission of crime and on earlier occasion, he was granted interim protection by this Court vide order dated 23.11.2023 in CRM-M-55769-2023, but during the pendency of same, petitioner was arrested in another case i.e. FIR No. 196 dated 02.10.2023 registered under Sections 420, 465, 471, 120-B & 201 IPC at Police Station, Civil Lines, Amritsar and eventually, he withdrew that petition. Also contends that in pursuance of the interim order dated 23.11.2023 (*supra*), petitioner joined investigation, but nothing incriminating was recovered from him and he is still ready to join the investigation, but petitioner be protected. Lastly contended that entire prosecution case is based on documentary evidence and which are very much available with the Cargo Motors or Kotak Mahindra bank; thus, his custodial interrogation will not serve any purpose.

4. *Per contra*, learned State counsel while opposing the prayer submitted that petitioner has actively conspired with the co-accused Jagmeet Singh as well as his father and his role is clearly discernible from the disclosure dated 31.08.2023 made by Jagmeet Singh and photocopy of the same has been produced, which is taken on record as Mark-X. Registry to do the needful.

While making reference to the aforesaid disclosure, learned state counsel submitted that it is the petitioner who had prepared the forged and fabricated documents being the Manager of Cargo Motors for purchasing 30 trucks and those have been disposed off by the accused to some unknown persons with his active connivance. Also contended that petitioner and co-accused have cheated various banks and financial institutions i.e. Kotak Mahindra, HDFC, Yes Bank, Indus Bank etc., but none of the 30 trucks was hypothecated and that facilitated the accused for selling the vehicles to third person(s) in an illegal manner.

Lastly contended that none of the vehicles has been recovered till date and as such, custodial interrogation of the petitioner would be very much necessary to know the *modus operandi* adopted in the entire episode.

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

6. Of course, in the initial version, petitioner is not named by the informant, but during investigation, Jagmeet Singh co-accused revealed his actual role in purchasing the vehicles on the basis of forged and fabricated documents, which were allegedly prepared by him in lieu of commission of Rs.2 lakh per vehicle(s). It has also come on record that petitioner as well as co-accused Jagmeet are known to each other for the last 15 years, as earlier Jagmeet Singh was also working with Tata Motors and they used to give business to each other. There is sufficient material on record to indicate that petitioner being Manager (Sales) with Cargo Motors, in connivance with Jagmeet Singh prepared forged and fabricated documents for purchasing 30 heavy vehicles and none of them was hypothecated; thus, it cannot be ruled out that some official(s) from Kotak Mahindra Bank also helped for purchasing the vehicles in an illegal manner, but no material has been collected and/or shown in this regard during the course of hearing.

7. No doubt, on earlier occasion, petitioner was granted interim bail by this Court on 23.11.2023 in CRM-M-55769-2023, but due to his arrest on 10.12.2023 in FIR No.196 dated 02.10.2023, he withdrew that petition on 29.01.2024. Also noteworthy that in FIR No. 196 (*supra*), petitioner remained in custody for sufficient time; but was released on regular bail by the Coordinate Bench vide order dated 28.02.2024. It is acknowledged during the course of hearing that Police was very much aware about the withdrawal of earlier petition on 29.01.2024, but despite that, they did not make any effort for seeking interrogation of the petitioner in the present case for the reasons best known to them.

8. In view of the above, *prima facie*, it appears that petitioner has played an active role in conspiring with the other co-accused, while purchasing the trucks in question as well as for disposal of the same in an illegal manner to third person(s) in other States i.e. Jharkhand etc.; thus, his custodial interrogation would be very much necessary to know the actual *modus operandi* in the commission of alleged crime.

9. As the accused have allegedly cheated and defrauded various banks and financial institutions i.e. Kotak Mahindra, HDFC, Yes Bank, Indus bank etc. while purchasing 30 heavy vehicles on the basis of forged and fabricated documents, but none of the vehicle is traceable till date; therefore, there would be no harm if the Government of Punjab, consider it appropriate to hand over the investigation to some central agency being a serious Bank fraud.

10. In view of the above, there is no option, except to dismiss the present petition.

11. Ordered accordingly.

12. The above observations be not construed as an expression of opinion on the merits of the controversy in any manner.

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

14. A copy of this order be sent to the Home Secretary, Department of Home Affairs and Justice, Government of Punjab.

22.03.2024 **(MAHABIR SINGH SINDHU)**
SN **JUDGE**

Whether Speaking/reasoned Yes/No

Whether reportable Yes/No

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