IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-16287-2024.
Reserved on- 08.04.2024
Date of decision: 15.04.2024

Ramdev Mittal ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

Mr. Vinod Ghai, Sr. Advocate with
Mr. Arnav Ghai, Advocate and
Ms. Kashish Sahni, Advocate for the complainant.
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KARAMJIT SINGH, J. (ORAL)

1. This is first petition filed by the petitioner for grant of anticipatory bail to him in criminal case having FIR No.95 dated 19.04.2019 under Section 406, 420, 467, 468, 471, 120-B IPC, Police Station Uklana, District Hisar.

2. The allegations in nutshell are that FIR in the present case was registered against petitioner and his brother and other members of their family and bank officials on the basis of complaint lodged by complainant Bhim Sain, wherein it was alleged that complainant is having 4 brothers including petitioner and co-accused Ram Niwas and their father Chandgi Ram in year 1987 constituted firm M/s Mittal Cotton Ginning and Processing Factory, Chandigarh Road, Ukalna in which all the five brothers including complainant were partners in equal shares. The entire business of

firm was looked after by petitioner Ram Dev Mittal and another brother Ram Niwas both of whom are accused in the present case. Chandgi Ram died in 1994. Complainant and his brothers Narender Kumar and Rajesh Kumar asked petitioner about the accounts of the firm but he did not give any satisfactory reply. After death of their mother in February 2006, the complainant and other brothers asked petitioner and Ram Niwas to settle the accounts but they failed to do so. Subsequently, on 06.10.2014 a family settlement (Annexure P-4) was effected between the parties and petitioner Ram Dev Mittal handed over possession of Cotton Ginning and Processing Factory to complainant and his brother Rajesh while petrol pump and computer kanda were kept by petitioner. That petitioner did not handover the papers of the factory to the complainant. Subsequently, complainant received a notice from Income Tax Department and then complainant inquired about bank account number 50200000437790 of HDFC Bank regarding which the complainant was earlier having no knowledge and he brought this fact to the notice of income tax authorities in his statement. The complainant also disclosed to income tax authorities that only petitioner and co-accused Ram Niwas could tell about the said bank account. Later on, the complainant came to know that the above said bank account was opened by petitioner and Ram Niwas with forged signatures of Bhim Sain, Narender Kumar and Rajesh Kumar and the said forgery was committed by petitioner, Neeraj and Amarjit Munim. All the accused persons had fraudulently withdrawn amount of Rs.9 crores from the funds of firm, using aforesaid bank account of HDFC bank as an conduit.

3. The counsel for the petitioner has submitted that petitioner is

falsely implicated in the present case at the instance of the complainant to counterblast FIR No.232 dated 29.09.2016 under Section 120-B/364-A/386/506/511 IPC, Police Station Uklana (Hisar) which was registered by present petitioner against complainant Narender and Rajesh Kumar and wherein the said accused are facing trial. It is further submitted that one another FIR having No.148 dated 13.06.2017 under Sections 406/420/467/468/471/506/120-B IPC was registered at Police Station Uklana, District Hisar against the petitioner at the instance of aforesaid Rajesh Kumar wherein the petitioner was granted anticipatory bail by co-ordinate Bench of this Court vide order dated 12.01.2022 Annexure P-6. The counsel for the petitioner further submits that even in the aforesaid FIR No.148 dated 13.06.2017, there were allegations of forgery against the petitioner.

4. The counsel for the petitioner has further submitted that the petitioner is always willing to settle the family dispute in an amicable manner. The first compromise was effected in 2014 vide Annexure P-4 and another settlement Annexure P-5 was effected in March 2018 and that even now petitioner is ready and willing to act upon said settlement but the complainant has backed out.

5. The counsel for the petitioner has further submitted that FIR in the present case was registered with regard to opening of bank account in HDFC bank in February 2013, whereas the firm was closed in 2014. The counsel for the petitioner further submits that firstly FIR was registered after gap of about 6 years and now the prosecution is placing reliance upon report of FSL which is of 2023 and this delay goes in favour of the

petitioner. It has been further contended that with passage of time there can be variation in signatures of a person and in the given circumstances, at this initial stage, the report of FSL which is against the petitioner with regard to disputed signatures, is not of much significance.

6. The counsel for the petitioner has further submitted that the entire case is based on documentary evidence which is in possession of the police/concerned bank/complainant. It is further submitted that at the best income tax department can initiate recovery proceeding against the complainant with regard to the entries recorded in the bank account in question. It is further submitted that petitioner is 70 years of age and cooperated in the inquiry and is even now ready to join the investigation with the police.

7. On the other hand, the State counsel and Senior counsel appearing on behalf of the petitioner have submitted that the petitioner is main accused who while managing the affairs of firm M/s Mittal Cotton Ginning and Processing Factory, opened a fake account in HDFC bank by forging signatures of complainant and his brothers Narender Kumar and Rajesh Kumar. It is further submitted that as and when the said forgery came to the notice of complainant, the matter was reported to the police. It is further submitted that the petitioner influenced the police officials, which resulted in delay of receipt of FSL report. It is further submitted that the disputed signatures were compared with admitted signatures which were contemporaneous. It has been further contended that the petitioner is a habitual offender and is required by the police for proper and effective investigation to go to root of the case.

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

9. The petitioner is named in the FIR and is facing grave allegations of forgery and cheating along with his co-accused. The prosecution has relied upon report of FSL in order to establish the aforesaid allegations of forgery and cheating. The contentions raised by the counsel for the petitioner that the present FIR is result of counterblast or that the report of FSL is not reliable, are not of much significance at this stage when the investigation is still in progress. Even the fact that petitioner is granted anticipatory in connected matter having FIR No.148 dated 13.06.2017, Police Station Uklana, District Hisar is not going to help the petitioner, at this point of time. There are allegations that petitioner used the said undisclosed bank account opened in HDFC bank to siphon out the funds of M/s Mittal Cotton Ginning and Processing Factory. In the given circumstances, custodial interrogation of petitioner is required to unfold the truth and to further enquire the involvement of other accused persons including the concerned bank officials.

10. Therefore, keeping in view the facts and circumstances of the case, it is held that petitioner is not entitled to get benefit of discretionary relief of anticipatory bail. Consequently, the present petition is hereby dismissed.

11. However, anything observed herein above shall not be treated as an expression of opinion on merits of the case.

15.04.2024 **(KARAMJIT SINGH)**

Yogesh **JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No