101(4)

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM M-37948-2018 (O&M)
Date of Decision: 27.02.2024

Manish Bothra ....Petitioner

Versus

State of Haryana ....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Suneet Pal Singh Aulakh, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.
assisted by ASI Narender Singh.

Mr. P.S. Ahluwalia, Advocate,
for the complainant.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure (for short "Cr.P.C") for seeking pre-arrest bail in FIR No.222 dated 30.03.2018 registered under Sections 406, 420 and 120-B IPC (Sections 467, 468 & 471 IPC added later on) registered at Police Station, Sadar Palwal, District Palwal.

2. Above FIR was lodged on the basis of complaint made by Neeraj Jain, Director of M/s Namo Alloys Private Limited with the allegations that Ritesh Jaju was appointed as the Chartered Account of the company in October, 2015. During the course of company audit on 01.03.2018, it transpired that Ritesh Jaju (C.A.) had embezzled an amount of about Rs.5 crore in connivance with some bank officials, company staff, Aditya Group, Gupta Group, Cool Age Aid-condition, Ganpati Aman, N.K. Builder, M.G. Trading, Raj Enterprises, Shiv Enterprises while forging documents and the alleged amount was transferred in the accounts of the different companies. Upon further scrutiny, it surfaced that above Ritesh Jaju (C.A.) and his wife, namely, Priyanka Jaju had been committing fraud in connivance with the aforesaid companies. At the time of lodging present FIR, audit of the company was going on and as such the fraud was expected to be much more.

3. Learned counsel for the petitioner contends that he was not named in the FIR; rather nominated merely on the suspicion that money was credited in his account by Ritesh Jaju (C.A.) Further contended that instead of sending him to custody, interim pre-arrest bail granted on 31.08.2018 (extended from time to time), be made absolute.

4. On the other hand, learned State counsel while opposing the prayer, submitted that during investigation, it has surfaced that total amount of Rs.44 crore was embezzled from the bank accounts of M/s Namo Alloys Private Limited on the basis of forged documents prepared by Ritesh Jaju (C.A.) in connivance with the present petitioner as well as some bank officials and other co-accused which resulted into addition of offences under Sections 467, 468 and 471 IPC.

Further submitted that there are total 68 companies/firms and the petitioner is one of the beneficiaries of the fraud. Also submitted that Ritesh Jaju (C.A.) has already been arrested and his application for seeking bail was rejected by Hon'ble the Supreme Court on 09.02.2023.

Also submitted that pre-arrest bail of co-accused-Vikalp Goutam Pawar was rejected by this Court on 18.05.2022 in CRM-M-14714-2022 and challenge to the same remained unsuccessful upto Hon'ble the Supreme Court vide order dated 08.09.2022 in SLP(Crl.) 5422/2022.

Lastly submitted that despite repeated opportunities, petitioner is not cooperating with the investigating officer; rather misusing the concession of interim bail; hence, his custodial interrogation would be very much necessary to know the *modus operandi* in the present case.

5. Learned counsel for the complainant while opposing the prayer of petitioner also submitted that apart from a sum of Rs.20 lakh was transferred in his account through other shell companies and which was actually withdrawn from the account of M/s Namo Alloys Private Limited by Ritesh Jaju in connivance with the petitioner and details of which are as under:-

MG Trading Co. to Manish Bothra ---------------Rs.20 lakh

That apart, Rs.58,97,000/- were transferred in the accounts of father and mother of petitioner. A sum of Rs.10 crore in cash was also handed over to petitioner by main accused Ritesh Jaju.

Again submitted that petitioner was granted interim protection by this Court, but despite sufficient opportunities, he has failed to cooperate with the investigating officer; nor he has refunded the remaining amount; thus, his custodial interrogation would be necessary to know the truth of matter.

6. Heard learned counsel for the parties and perused the paper-book as well as the police file.

7. As per allegations in the FIR, initial embezzled amount was stated to be Rs.5 crore, but it was further alleged that actual amount may be much more. During investigation, Police has collected sufficient material to the effect that fraud was committed by Ritesh Jaju in connivance with other co-accused to the tune of Rs.44 crore. It has also come on record that there are approximately 68 companies and out of those, some are fake entities registered on the basis of forged documents and petitioner is found to be one of the beneficiaries. It is not in dispute that petitioner received an amount of Rs. 20 lakh from the account of M/s Namo Alloys Private Limited. Records reveal that Rs.1,67,89,220/- were transferred from M/s Namo Alloys to MG Trading Company which is found to be registered on the basis of fake documents. Also discernible that Rs.58,97,000/- were transferred in the account of father and mother of petitioner from the account of MG Trading Company. Bail application of main accused-Ritesh Jaju has already been dismissed by the Hon'ble Supreme Court on 09.02.2023.

8. Police file also reveals that during interrogation, said Ritesh Jaju made disclosure to the effect that "*he, Manish Bothra, Harish Bothra @ Chaand, Suraj Bothra, Manish Purohi @ Natsa, Lokesh Purohit, Manoj Vayas, Shashi Gogana were having account number of his wife namely Priyanka. He had given him the account number, in which account he transferred the money from his company and that of his known people through RTGS Jable to the account of his wife Rima Bothra wife of Manish Bothra had also given him her account pay number in which he had registered Namo Allies. RTGS was done on the money from the account of Company Pvt. Ltd.*" and the above statement is duly supported by the other material collected by the Police. Thus, as on today, the complicity of the petitioner is well apparent in the present case.

9. The petitioner was granted interim bail by this Court which was extended from time to time, but despite sufficient opportunities, petitioner has failed to cooperate with the investigating officer; hence, he has misused the concession.

Above all, as already noticed, the regular bail of the main accused-Ritesh Jaju (C.A.) has already been dismissed upto Hon'ble the Supreme and even the pre-arrest bail of co-accused-Vikalp Goutam Pawar was also declined by Hon'ble the Supreme Court on 08.09.2022.

10. In view of the above, this Court is of the opinion that custodial interrogation of the petitioner would be very much necessary to know the actual *modus operandi* adopted in the present case leading to the alleged fraud.

11. Consequently, there is no option, except to dismiss the present petition.

12. Ordered accordingly.

13. Needless to say that interim bail granted to the petitioner on 31.08.2018, extended from time to time, shall come to an end, forthwith.

14. The above observations be not construed as an expression of opinion on merits of the case; rather confined only to the present bail application.

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

27.02.2024 **(MAHABIR SINGH SINDHU)**
SN **JUDGE**

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No