

101(15)

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM M-41132-2018 (O&M)****Date of Decision: 27.02.2024**

Nitesh Garg

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Anurag Arora, Advocate for
Mr. Gautam Dutt, Advocate,
for the petitioner.

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

Mr. Nitin Jain, 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 grant of pre-arrest bail to the petitioner in FIR No.222 dated 30.03.2018 registered under Sections 406, 420, 467, 468, 471 & 120-B IPC, registered at Police Station, Sadar Palwal, District Palwal.

2. The instant FIR was lodged on the complaint moved by Neeraj Jain, Director, M/s Namo Alloys Private Limited alleging that in the month of October, 2015, he had appointed Ritesh Jaju, (Chartered Accountant) to maintain accounts of his company. On 01.03.2018, during the course of audit made by different auditors, it was discovered that Ritesh Jaju (C.A.) had embezzled an amount of about Rs.5 crore in connivance with bank officials, company staff, Aditya Group, Gupta Group, Cool Age Aid-condition, Ganpati Aman, N.K. Builder, M.G. Trading, Raj Enterprises, Shiv Enterprises by

forging documents and the amount had been transferred in the accounts of the said companies. Upon further inquiry, it surfaced that Ritesh Jaju (C.A.) has been committing said fraud in connivance with the aforesaid companies and his wife Priyanka Jaju. Since at the time of lodging of the FIR, the audit was still going on and it was expected that the total amount defrauded would ultimately be found to be much more.

3. Learned counsel on instructions from petitioner submits that he was granted interim bail by this Court on 18.09.2018; in pursuance thereof, he has already joined investigation on various occasions. Also contended that petitioner was the Chartered Accountant. Further contends that money was not transferred into his account; petitioner is alleged to have given account numbers of Aman Trading Company & Ganesh Trading Company; hence his custodial interrogation would not serve any purpose.

4. The above factual position is duly acknowledged by learned State Counsel, on instructions from quarter concerned and fairly submitted that custodial interrogation of the petitioner is not required, at this stage.

5. A Coordinate Bench of this Court vide order dated 18.09.2018, granted interim bail to petitioner and the same reads as under:-

“Prayer in this petition is for grant of anticipatory bail in FIR No.222 dated 30.03.2018 under Sections 120-B, 406, 420 IPC, registered at Police Station Sadar Palwal, District Palwal.

Learned counsel for the petitioner submits that the petitioner has joined the investigation in pursuance to the interim order dated 01.09.2018 passed by the Additional Sessions Judge, Palwal, however, his anticipatory bail application was dismissed on the ground that he has not given all the facts necessary for investigation. It is further submitted that as per disclosure statement of co-accused Rajender, it is stated that at the instance of petitioner,

he had received account numbers of Aman Trading Company and Ganesh Trading Company and some amount by way of RTGS was transferred in the account of his company. Counsel for the petitioner further submits that anticipatory bail application i.e. CRM-M-22980-2018, filed by co-accused Shashi Kumar is listed for 25.09.2018.

Notice of motion for 25.09.2018.

To be listed along with CRM-M-22980-2018.

In the meantime, the petitioner is directed to appear before the Investigating Officer within a period of 10 days to join investigation and he will be released on interim bail on furnishing bail/surety bonds subject to the following conditions:-

- 1. He will make himself available for interrogation by a police officer as and when required;*
- 2. He will not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and*
- 3. He will not leave India without previous permission of the Court.”*

6. Although, learned counsel for complainant objected to the prayer of the petitioner, but since State is not asking for custodial interrogation, therefore, the objection of complainant stands rejected.

Consequently, In view of above, interim order dated 18.09.2018 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

7. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

8. The above observations be not construed as an expression of
opinion on merits of the case; rather confined only to decide the present bail
matter.
9. Disposed off accordingly.
10. Pending criminal misc. application(s), if any, shall also stand
disposed off.

27.02.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

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