2024:PHHC:061584

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(113)

CRM-M-22007-2024 (O&M)
Date of Decision:-02.05.2024

Harish Verma

……Petitioner

Versus

State of Punjab and another

……Respondents

CORAM: HON'BLE MR. JUSTICEALOK JAIN

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Present: Mr. Samay Sandhawalia, Advocate for the petitioner.

Mr. Siddharth Attri, AAG, Punjab.

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ALOK JAIN, J. (Oral)

1. Prayer is for grant of anticipatory bail to the petitioner in case FIR No.206 dated 26.05.2021, under Sections 406, 120-B of IPC (Sections 465, 467, 468, 471 of IPC added later on date 12.01.2024 via Rapat No.20), registered at Police Station City Kharar, District SAS Nagar.

2. Learned counsel for the petitioner has opened his arguments by submitting that the FIR was lodged on 26.05.2021 under Sections 406, 120-B of IPC and the petitioner was granted the concession of regular bail on 07.06.2021. However, during the pendency of the trial Rapat No.20 was recorded on 12.01.2024 and the charges were enhanced to Sections 465, 467, 468, 471 of IPC. The reason for the enhancement of the charges qua the petitioner was that one Deepak Sharma alleged that an affidavit was presented on his behalf before the trial Court, however, the same was forged

and fabricated by none other than the present petitioner. The enhancement of the charges in the above-mentioned FIR necessitated the petitioner to seek the concession of anticipatory bail. The said petition came to be dismissed by the learned Sessions Court on 15.04.2024 and, hence, this petition.

3. Learned counsel for the petitioner has vehemently argued that there is an inordinate delay of 03 years in registering the said Rapat. Deepak Sharma never in the last three years i.e. after the FIR was registered raised any allegations that a forged affidavit was submitted on his behalf before the Court or the Police or any other Authority. He has further submitted that, in fact, Deepak Sharma was a former employee of Bajwa Developers and after he ceased to be an employee, is now hand-in-glove with the complainant and the tactics being used by them are only to extort money from the petitioner and his family. Learned counsel for the petitioner also argued that there is no proof of the allegations that the affidavit is false apart from the self-serving statement of Deepak Sharma, and to verify the said fact the petitioner is ready to give his sample signatures which can be matched with the signatures/hand-writing on the affidavit which will bring the truth out. Learned counsel for the petitioner has also taken this Court through the provisions of the affidavit which has been alleged to be forged and has relied upon Paras 4 to 6 (Annexure P-10), which are reproduced as under:

> *"4. That Harish Verma and his wife Rekha Verma has transferred the entire amount in the account of the company and some amount has also been paid in case.*
>
> *5. That entire due amount as per the mutual agreement affect with Arvinder Singh S/o Karam singh R/o Village Abhaypur, SAS, Nagar, Mohali, some amount has been*

deposited in his account and remaining amount has been paid to Arvinder Singh in presence of Harish Verma. Now Arvinder Singh has no amount is due towards Jarnail Singh Bajwa or company or against Harish Verma and Arvinder Singh.

6. That the matter with Arvinder Singh has already been settled but despite that he has been blackmailing and took around more than 2crores in the shape of cash and plots and still blackmailing the deponent. He has also been filing false complaints against them and also been threatening to kill them and threatening them that he will commit suicide."

4. Learned counsel for the petitioner has also argued that the complainant has already been compensated in the litigation initiated by him against Bajwa Developers by executing a sale deed in favour of his mother and in those sale deeds it was categorically recorded that the sale deeds are being executed in furtherance to a compromise in an FIR which was lodged by the complainant against Bajwa Developers. He also submitted that the allegations of the complainant that the developer had transferred certain properties to the petitioner which were to be further sold by the petitioner and the proceeds from the sale were to be given to the complainant are unfounded as there is nothing on record to demonstrate the sale of any such property to the petitioner's family. In fact, the learned counsel for the petitioner clarifies that the petitioner's family has only three properties in their name for which appropriate payments are duly reflected in their Bank accounts. There is nothing to demonstrate that the petitioner or his family received any property apart from the above or any amount by the sale of such property. To summarize he submits that the custodial interrogation of the petitioner is not required and, hence, he be granted the concession of anticipatory bail.

5. Heard learned counsel for the petitioner and have also gone through the documents placed on record and the order dated 15.04.2024 passed by the Learned Sessions Court, wherein, it has been recorded that Deepak Sharma has specifically alleged that the affidavit (Annexure P-10) was forged and fabricated by the present petitioner in which all the claims of the complainant were shown to have been discharged. There are specific allegations against the petitioner and more so, this Court has already granted the concession to the other two accused only on the ground that it was the petitioner against whom specific allegations were made. A forged document has been used not only in a Court of law but also before the Police as well as other competent authorities. Since, it is a case of forging and fabrication of a document, the custodial interrogation of the petitioner is of utmost necessity as it is required to unveil the exact *modus operandi* of the crime committed and to unearth as to where the alleged forged document was used or misused. The custodial interrogation is also necessary as it is imperative to find out if any other documents were also forged, fabricated or manufactured and to decipher as to if some other material evidence has been manipulated or not.

6. The allegations against the petitioner are of manufacturing a document which ostensibly extinguishes the claims of the complainant qua the petitioner and his family. The alleged forged document is a self-serving statement in which it has been recorded that there is no outstanding liability of the petitioner qua the complainant but it is not forth coming as to what was the reason that this affidavit was executed in the first place.

7. The Hon'ble Supreme Court recently in the case of ***"Manno Lal Jaiswal Vs. State of Uttar Pradesh", 2022 Live Law (SC) 88,***reiterated the relevant grounds which are to be considered while deciding an application of bail, which are as follows:-

(i) Nature and seriousness of the offence;

(ii) Character of the evidence and circumstances which are peculiar to the accused;

(iii) Likelihood of the accused fleeing from justice;

(iv) The impact that his release may make on the prosecution witnesses, its impact on the society;

(v) Likelihood of his tampering evidence.

8. In the present case, the petitioner was released on regular bail as the learned Court below relied upon the affidavit which is now alleged to be forged. The allegations *prima facie* are serious enough to warrant consideration as allegedly a false document was presented before a Court which may have mislead the Court to grant the concession of regular bail at the first instance. Had the said affidavit would not have been presented, the petitioner might not have got any relief from the Court. Also, the said affidavit was relied upon by the petitioner and his family time and again in the enquiries and investigation conducted in the present case to demonstrate that they had no role to play since inception.

9. The allegations against the petitioner are grave as a false piece of evidence if presented before a Court of law can lead to miscarriage of justice. Further it cannot be ruled out that the petitioner might tamper with

evidence as the allegations itself are of compromising an important piece of evidence.

10. It is settled principle of law as held by the Hon'ble Supreme Court of India in the case of ***"CBI Vs. Anil Sharma"***, **(1997) 7 SCC 187**,wherein, it has been held as under:

> "*We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring would not conduct themselves as offenders."*

11. Accordingly, the custodial interrogation of the petitioner would be of grave importance, at this stage, to ensure that the investigation in this case comes to its logical end and that custodial interrogation is qualitatively more elicitation orientated then questioning a suspect who seeks anticipatory bail as:-

i. The fact that the signatory of the alleged forged affidavit has himself disputed his signatures and the allegations are that a false piece of evidence was presented before the Court/authorities; and

ii. The other two accused who happen to be the wife and sister-in-law of the petitioner have already been granted the concession of anticipatory bail by this Court only on the ground that they had taken a stand that the entire allegation of forgery is against the present petitioner and not against them; and

iii. It also needs to be investigated as to whether there is any other document which was forged or any other act/omission committed in furtherance of the offence allegedly committed by him, including the tampering of the evidence at any stage.

12. In light of the above, I do not find any ground, at this stage, to grant the extra ordinary concession of anticipatory bail to the petitioner, hence, the same is dismissed without expressing any opinion on the merits of the case.

13. Pending miscellaneous applications shall stand disposed of.

(ALOK JAIN)
JUDGE

May 02, 2024
Parul

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