

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.27873 of 2021 (O&M)
Date of Decision: 13.02.2024

Ramesh Morani
..... Petitioner
Versus
State of Haryana
..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Vimal Kumar Gupta, Mr. Lalit Yadav &
Ms. Kajal Chauhan, Advocates for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana for the respondent.

Mr. Anshuman Dalal, Advocate for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.522 dated 27.12.2020, under Sections 406, 420, 506, 120-B of the Indian Penal Code, 1860, registered at Police Station Sector 14, Gurugram.

(2) Above FIR was registered on the basis of statement made by complainant-Radhey Shyam Mehta with the allegations that petitioner, along with other co-accused, cheated the complainant party to the tune of ₹ 2,44,00,000/- on false pretext of investment in mining business, which was already restrained by the Hon'ble Supreme Court.

(3) Status Report by way of an affidavit dated 12.02.2024 of Sh. Mukesh Kumar, ACP, City, Gurugram has been filed on behalf of respondent/State. The same is taken on record. Copy thereof supplied to the opposite side.

(4) Learned Counsel for the petitioner contends that mining activities could not be carried out due to the restraint order dated 16.11.2017, passed by the Hon'ble Supreme Court; thus, he has not committed any offence. Also contends that out of amount of ₹ 1,11,00,000/-, allegedly received by the petitioner, ₹ 40 Lakh has already been returned to the complainant and four cheques, worth ₹ 90 Lakh, were also issued as a security; but the complainants with dishonest intention presented the same for encashment, which were dishonoured. Lastly contends that the dispute is purely of civil nature, but it has been given the colour of a criminal case; hence, his custodial interrogation is not required.

(5) *Per contra*, learned State Counsel on instructions from the police official concerned opposed the bail while submitting that three co-accused are still absconding and petitioner is not cooperating with the Investigating Officer.

(6) Learned Counsel for the complainant also opposed the prayer while submitting that after settlement, petitioner issued four cheques to the tune of ₹ 90 Lakh; but the same have been dishonoured, and complaints under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'the Act'*) are pending before learned Judicial Magistrate 1st Class, Gurugram (*for short 'JMIC'*). Further submits that despite non-bailable warrants, petitioner is not appearing before learned JMIC; rather playing hide and seek.

(7) Heard learned Counsel for the parties and perused the paper-book.

(8) The Coordinate Bench, on 07.02.2022, granted interim bail to the petitioner in the following manner:-

“Learned counsel for the petitioner has argued that the accused is legitimately engaged in the business of mining and as per allegations in the FIR, the complainant had invested a sum of One Crore Eleven Lakhs in February 2018 with the accused to earn profits, but by virtue of the order dated 16.11.2017 passed by Hon'ble Supreme Court the mining activities were restrained in the State of Rajasthan, and since the said order remained operative till 11.11.2021, therefore, the petitioner could not carry on the mining activities. He submits that against the investment of One Crore Eleven Lakhs, an amount of Forty Lakhs has already been returned to complainant, whereas four cheques worth Ninety lakhs were also issued but the said cheques were dishonoured, resulting in complaints against him under Section 138 of Negotiable Instruments Act, 1881 in March 2019, which are pending. He submits that it is a dispute which is purely of civil nature and based upon the documentary material, therefore, custodial interrogation of the petitioner may not be necessary.

Learned counsel for the complainant has vehemently opposed the prayer and has argued that the petitioner was well aware of the prohibitory orders when he received amount from the complainant in year 2018, however it is not disputed that the amount was invested in the business of the accused to earn profit and only a sum of Forty Lakhs has been received. According to him, in all a sum of Two Crores Forty Four lakhs was invested by the complainant and the complaints relating to the cheques are indeed pending. According to him, the custodial interrogation of the petitioner would be necessary.

At this stage, learned counsel for the petitioner has argued that the order passed by Hon'ble Supreme Court was also within the knowledge of the complainant and he willingly invested the amount. He has further pointed out that admittedly the

complaints were filed in the year 2019, but the FIR has been lodged after a long delay in December, 2020 to falsely implicate the petitioner.

Learned State counsel assisted by Sub Inspector Ajit Singh has referred to the reply and does not dispute the above factual aspect but reiterates that the custodial interrogation of the petitioner is necessary to recover the balance outstanding amount.

Adjourned to 20.07.2022.

Meanwhile, the petitioner shall join investigation and would come present as and when called for and in the even of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/ Investigating Officer. The petitioner shall abide by the conditions as specified under Section 438(2) Cr.P.C.”

(9) Although, petitioner was granted interim bail by the Coordinate Bench; but he is not cooperating with the Investigating Agency. Also discernible that petitioner is not appearing before learned JMIC despite non-bailable warrants issued against him in four different complaints under Section 138 of the Act. It is noteworthy that all those complaints are the off-shoots of the settlement in present FIR.

Also discernible that petitioner is involved in two more FIRs; thus, it shows that he has no respect for rule of law and above all, he is misusing the concession of interim bail already granted to him.

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

(11) Ordered accordingly.

(12) Needless to say that interim order dated 07.02.2022, extended from time to time, shall come to an end, automatically.

- (13) The above observations may not be construed as an expression of opinion on merits of the case.
- (14) Pending application(s), if any, shall also stand disposed off.

13th February, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

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