

101(9)
**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(1) **CRM M-46924-2018 (O&M)**
Date of Decision: 27.02.2024
Manoj Kumar VyasPetitioner

Versus

State of HaryanaRespondent

(2) **CRM M-46929-2018 (O&M)**

Anil PurohitPetitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Raghav Gulati, Advocate,
for the petitioner(s).

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

Mr. Nitin Jain, Advocate,
for the complainant.

MAHABIR SINGH SINDHU. J.

This order shall dispose off above two petitions 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.

Present petitioners are alleged to be the beneficiary being partners of Satyam Gold Testing.

3. Learned Senior counsel for the petitioners contends that they are not named in the FIR; rather nominated merely on the suspicion that they were partners of Satyam Gold Testing. Further contended that main accused C.A-Ritesh Jaju approached petitioner(s) for purchase of gold bar which they sold to him on various occasions against invoices (P-4 colly). Also contends that petitioner(s) cannot be fastened with any liability, if C.A-Ritesh Jaju had committed fraud, if any, with the company, namely, Namo Alloys Pvt. Limited. Still further contended that out of total amount of Rs.1,45,26,270/-, they have already refunded Rs.61 lakh to the complainant; thus, instead of sending them to custody, interim pre-arrest bail granted on 03.12.2018 (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 petitioners 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 petitioners are one of the beneficiaries of the fraud being partners of Satyam Gold Testing. 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, petitioners are not cooperating with the investigating officer; rather misusing the concession of interim bail; hence, their 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(s) also submitted that a sum of Rs.1,45,26,270/- was transferred into the account of petitioner(s). Also contends that the story propounded by petitioner(s) that it was a transaction on account of sale of gold does not stand to logic inasmuch as, the alleged gold, as claimed by petitioner(s), was sold on 02.04.2017, however, the payment thereof was made on 14.08.2017. It is highly improbable that a man would sell gold on a credit and that too for a period of four months. Similarly, the remaining entries also do not match.

Again submitted that petitioner(s) were granted interim protection by this Court, but despite sufficient opportunities, they have failed to cooperate with the investigating officer; nor they have refunded the remaining amount;

thus, their 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 petitioners are found to be one of the beneficiaries. It is not in dispute that petitioners being the partners of Satyam Gold Testing received an amount of Rs. 1,45,26,270/- from the account of M/s Namo Alloys Private Limited. 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 *“Manish Purohit @ Natusa or Lokesh Purohot gave him the accounts of these companies, in which he has transferred amount from the account of Namo Alloys Pvt. Ltd. Company. 1 LOMANI EARTH SPACE Rs.15530962/-; 2. BHAUL FOODS Rs.1845000/-; 3. S.K. TRADERS Rs.37103569; 4. SATYAM GOLD Rs.14526270; 5. DIVYA TRADING CO. LTD. Rs.28577415 was sent.”* and the above statement is duly supported by the other material collected by the Police. Thus, as on today, the complicity of the petitioner(s) is well apparent in the present case.

9. Although, learned counsel for the petitioner tried to raise a plea that money was received on account of sale of gold, this Court has gone through the invoices (P-4 colly) and the entries of amount(s) received by petitioner(s),

which *prima facie* suggest that the gold was sold prior in time and amount was made after a gap of four months; thus, the plea is rejected.

Still further the argument to the effect that petitioner has already refunded an amount of Rs.61 lakh/- to the complainant does not absolve them from criminal liability; rather the same is to be construed other way round and moreover, such a plea, at best, can be raised as defence, during trial.

10. The petitioners were granted interim bail by this Court which was extended from time to time, but despite sufficient opportunities, petitioners have failed to cooperate with the investigating officer; hence, they have 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.

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

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

13. Ordered accordingly.

14. Needless to say that interim bail granted to the petitioner(s) on 03.12.2018, extended from time to time, shall come to an end, forthwith.

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

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

17. A photocopy of this order be placed on the file(s) of connected case(s).

27.02.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

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