

101(16)

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM M-28103-2019 (O&M)****Date of Decision: 27.02.2024**

Hari Shankar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Ankit Yadav, Advocate for
Mr. Sachin Kaushik, 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 09.07.2019; in pursuance thereof, he has already joined investigation on various occasions. Also contended that petitioner is merely an employee of M/s Spark Trading which is alleged to have sold diamonds to the complainant's 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 09.07.2019, 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 406, 420, 120-B IPC and Sections 467, 468, 471, 201 IPC (added later on), registered at Police Station Sadar Palwal, District Palwal.

Learned counsel for the petitioner, inter alia, contends that as per allegations in the FIR, the Chartered Accountant of complainant-company Ritesh Jaju, by creating a fake firm, has transferred huge amount to other companies and upon inquiry from the employees of the company, it came to the notice that Ritesh Jaju along with wife Priyanka Jaju and some other employees of the company, bank officials and relatives have committed a fraud of Rs.5.00 crores. Learned

counsel has referred to the disclosure statement of co-accused Ram Aashish, who has stated that in fact, the firm was created by one Harish Aggarwal, by using his I.D. and has opened an account in Punjab National Bank and he was paying him Rs.15,000/- per month and the cheque book and bank copy were maintained by aforesaid Harish Aggarwal. It is further submitted that Ritesh Jaju and Harish Aggarwal stand arrested.

Learned counsel for the petitioner has further submitted that even the petitioner was one of the employee of firm, created by the aforesaid persons and he had no direct dealing with the complainant. It is further submitted that some of the matters pertaining to this incident are fixed for 29.07.2019, in which some of the petitioners have been granted the concession of interim anticipatory bail.

Learned State counsel, on instructions from SI Jawahar Singh and assisted by learned counsel for the complainant, has however submitted that the petitioner was in fact Director of one of such firm, which was created by Ritesh Jaju and others.

List again on 29.07.2019.

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

- 1. He shall make himself available for interrogation by a police officer as and when required;*
- 2. He shall 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 shall 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.

7. Consequently, In view of above, interim order dated 09.07.2019 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

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

9. 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.

10. Disposed off accordingly.

11. 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