

2024:PHHC:133176



104 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
AT CHANDIGARH

CRM-M-30407-2024 (O&M)
DECIDED ON: 03.07.2024

VINAY RAI

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Nikhil Ghai, Advocate and Mr. Gurjas Gill, Advocate
for the petitioner.

Mr. Surender Singh Pannu, Addl. AG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

CRM-25989-2024

Prayer in the present petition is for placing on record, Annexures P-22 to P-30.

Application is allowed.

Annexures P-22 to P-30 are taken on record.

CRM-M-30407-2024

1. Relief sought

The jurisdiction of this Court has been invoked under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.8, dated 01.08.2018, under Sections 409, 420, 467, 468, 471 and 120-B IPC, registered at Police Station State Vigilance Bureau, Ambala, Ambala.

2. Facts

The prosecution agency was set into motion upon a letter no.63/50/2017-1, dated 11.09.2017, of the Chief Secretary to Government of Haryana, Chandigarh, whereupon an Inquiry No.5, dated 15.09.2017 was registered by the State Vigilance Bureau, Division Ambala. Thereupon, an enquiry was conducted on allegations to the fact that from the office of Director, Higher Education Haryana, Panchkula, an amount of Rs.4,84,56,604/- pertaining the scholarship of students belonging to Scheduled Castes and Scheduled Tribes (SC/ST), were transferred in the bank accounts of NIILM University, Kaithal. The said amount was to be given by the Administrator, NIILM University, Kaithal, to the students belongings to SC/ST category for maintenance/scholarship, but the said amount instead of providing to the entitled students were being embezzled and utilised by the Administrator of the university, for benefit of university. For that purpose, they have shown forged admissions of students belongings of SC/ST category in excess to the students belonging to the General Category in course/classes. For conducting a preliminary inquiry a committee under the chairmanship of Shrimati Simati Chaudhary, IPS, Superintendent of Police, State Vigilance Bureau, Haryana, Panchkula, was constituted, who investigated the charges levelled against the said university. Thereupon, the charges were found to be correct, and on the recommendations of the State Vigilance Bureau, instant FIR, was registered against 25 persons, including the present petitioners and the NIILM University.

3. Submissions**On behalf of petitioner**

Learned counsel for the petitioner submits that he was appointed as Chancellor of the NIILM University on dated 22.03.2016, whereas, admittedly the alleged offence is pertaining to period of 2013-2015, i.e. much before joining of the petitioner to said University. Thus, the petitioner has nothing do with the alleged offence. He further submits that the tenure of the petitioner, as a Chancellor started on 22.03.2016, which ended on 15.03.2019. For which he has placed reliance upon a letter/order dated 22.03.2016, of the Secretary to Governor of Haryana. He has further submitted that there is no specific allegation against the petitioner, hence, the registration of the instant FIR against him, is nothing but a totally abuse of process of law.

On behalf of respondent-State

Learned State counsel has opposed the prayer made in the present petition stating that there is sufficient evidence against the petitioner to prove his guilt and his custodial interrogation is required to unearth all the ramifications involved in the present FIR.

4. Analysis and Conclusion

Heard learned counsel for the parties.

No other argument has been raised by either of the parties.

In case of criminal investigation, the normal procedure prescribed for curtailing the right to life & liberty, is that the investigating officer can arrest the accused even without warrant. The court has extraordinary power to protect an innocent person. However, this power has to be exercised by the courts with due circumspection.

The said University is a private university and the petitioner is a Founder-cum-Chairman of the Rai Foundation of the Northern Institute of

Integrated Learning in Management, (NIILM) University, and during the investigation the documents so collected, it is clearly evident that the petitioner is the main beneficiary.

After conducting an investigation, it became evident that one of the accused, Kamna Khetarpal, the former vice-chancellor and registrar of NIILM University, had colluded with other parties to give Vinay Rai, the university's owner and Chancellor, undue benefit. She had given some brokers a commission of thirty-five percent in exchange for obtaining forged admissions from students in the SC/ST category, and by presenting those forged admissions, she had embezzled the sum of Rs. 6,75,700.

By citing the decision dated March 22, 2016, the petitioner has claimed that he was appointed as the University's Chancellor only after the alleged period of misappropriation, therefore, by any stretch of imagination he cannot be arrayed as an accused. The petitioner is found to be Founder and current Chairman of the Rai Foundation of the Integrated Learning in Management, Northern Institute of the *de facto* proprietor of the aforementioned (NIILM) University a private university. Thus, he stands to gain the most from any theft carried out by the aforementioned Amount transferred to the account from the university within the University.

It is settled proposition of law that power exercisable under Section 438 Cr.P.C., is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in “*State vs. Anil Sharma*”; (1997) 7 SCC 187, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable order

under Section 438 of the code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also material 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 needs 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 offences would not conduct themselves as offenders.”

Keeping in view the role attributed to the petitioner, this Court is of the view that the custodial interrogation of the petitioner is required to collect the material evidence, which may further enable the Investigating Agency to unearth the ramifications involved in the present case and that will ultimately help the Investigating Agency to reach to a logical conclusion.

In view of the discussions made hereinabove, this Court is of the firm view that the petitioner does not deserve the concession of pre-arrest bail, as such the same is dismissed being devoid of any merits.

(SANDEEP MOUDGIL)
JUDGE

03.07.2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No