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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-30565-2024 (O&M)
Decided on : 21.10.2024

Narender @ Narender Rathi Dhiman ...... Petitioner

Versus

State of Haryana ...... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Nishant Chauhan, Advocate
for the petitioner.

Ms. Trishanjli Sharma, DAG, Haryana.

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Manjari Nehru Kaul, J.(Oral)

CRM-41618-2024

Application is allowed as prayed for and reply along with Annexure R-1 filed on behalf of complainant is taken on record subject to all just exceptions.

Main case

1. This is the petition filed by the petitioner seeking concession of anticipatory bail in case FIR No.218 dated 02.10.2023 under Sections 419, 420, 506 and 34 IPC registered at Police Station Alewa District Jind.

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and, in

fact, has himself been defrauded by co-accused Vinay Kumar, suffering financial losses as a result. The company that co-accused Vinay Kumar had floated, was later discovered to be a fraudulent entity. Moreover, it has been asserted by the learned counsel that no money was ever entrusted to him by the complainant; instead, the money was given to another co-accused, Mahabir, who has already been granted bail by the Trial Court. Learned counsel for the petitioner further claims that the petitioner was not a partner in the company "Stars Maker", which was operated by co-accused Vinay Kumar. Consequently, a prayer has been made that since the petitioner has also joined investigation pursuant to order dated 15.07.2024, he be extended the concession of anticipatory bail.

3. On the last date of hearing, following submissions were made by learned State counsel as well as counsel for the complainant:

> *"Learned State counsel at the outset has drawn the attention of this Court to the affidavit dated 04.07.2024 filed by Deputy Superintendent of Police, Jind. Learned State counsel assisted by learned counsel for the complainant has argued that in fact, the petitioner was the mastermind behind the entire crime. Learned State counsel submits that the petitioner got a shop from the Labour Department in the name of one Vinay, however, all the relevant papers clearly reflected that it was the petitioner whose photographs had been pasted on those*

documents for the purpose of obtaining a licence to run an Ayurvedic Clinic. It has also been submitted by the learned State counsel that documentary evidence in the shape of video recording had also been collected by the investigating agency, wherein the complainant is visible handing over a substantial sum of cash to the accused. However, learned State counsel has not controverted that no sum of money was deposited in the bank account of the petitioner.

Learned counsel for the complainant has however submitted that the petitioner was in cahoots with the co-accused and cash had been given to the petitioner by the complainant."

4. Learned State counsel, on instructions, has contended that despite being asked to join the investigation, the petitioner has not cooperated with the investigating agency. The petitioner is the main accused, having defrauded the complainant of more than Rs.8 lacs. It has been further submitted that during investigation it has surfaced that this is not an isolated incident, and numerous other individuals have reportedly fallen victim to the deceptive practices of the petitioner and his co-accused. While drawing the attention of this Court to the allegations levelled in the FIR in question, learned State counsel has asserted that the petitioner along with his co-accused, developed a software to operate a bogus company through which innocent persons were cheated of their hard earned money.

5. Learned State counsel has argued that the custodial interrogation of the petitioner is essential, particularly, since he has

withheld key information regarding the whereabouts and details of his co-accused Vinay Kumar. Furthermore, learned State counsel submits that the petitioner has knowledge of the login credentials and operational details of the fraudulent software, but has refused to disclose this information. Learned State counsel has also vehemently disputed the submissions by the petitioner and his claim that no money was received by him from the complainant, by submitting that a CD recording has been produced during investigation by the complainant showing the petitioner accepting money from the complainant.

6. Learned State counsel has submitted that in the light of the specific allegations and the manner in which the petitioner, along with his accomplices, has defrauded innocent people, his custodial interrogation is necessary as it would uncover the complete mode and manner in which the accused had given effect to the crime in question.

7. I have heard learned counsel for the parties and perused the material placed on record.

8. The FIR annexed as Annexure P-1 details a case of pre-mediated fraud perpetrated by multiple persons, including the petitioner. The complainant has levelled specific allegations against all the accused including the petitioner of conspiring to cheat him through the fraudulent operation of a company named “Stars Maker”.

9. Allegedly in August, 2022, all the accused, including the petitioner, approached the complainant, both in persons and telephonically, to persuade him to invest in their company. The

accused provided false assurances about the legitimacy of the company and promised lucrative returns. After several follow up conversations, the accused convinced the complainant to invest substantial amount of money in their company between 08.10.2022 to 24.10.2022. The petitioner is specifically mentioned as having facilitated the transfer of money using his credit card, and he was allegedly present when Rs.5 lacs in cash was taken from the complainant on 24.10.2022 during a visit to the complainant's house. Video and photographic evidence of this transaction was saved by the complainant and has been provided to the investigating agency.

10. Although as per allegations levelled in the FIR, the accused initially returned a small portion of the invested sum, they have since failed to return the remaining amount of invested money. Furthermore, and pertinently as per allegations, on 11.03.2023, the petitioner contacted the complainant, acknowledging the outstanding amount and promising to repay the same with interest, but in vain. When the complainant tried to contact the accused, they allegedly threatened him and his family with dire consequences and even claiming that they have connections with criminals. A perusal of the FIR, thus, *prima facie* indicates that the petitioner played a central role in the crime in question.

11. *Prima facie*, there are serious and specific allegations against the petitioner; although the petitioner was granted the concession of interim bail to cooperate with the investigating agency,

however, he had failed to do so. Given his non-cooperation and the gravity of allegations, the petitioner does not deserve the extraordinary concession of anticipatory bail. Accordingly, the instant petition stands dismissed.

12. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

21.10.2024 **(MANJARI NEHRU KAUL)**
sonia **JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No