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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-40187-2024
DECIDED ON: 27.08.2024

ARMAN

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Dr. Malvika Singh, Advocate
for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

<u>SANDEEP MOUDGIL, J (ORAL)</u>

1. **<u>Relief sought</u>**

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.0537, dated 26.11.2019, under Sections 120-B, 406, 420, 467, 468, 471 and 506 IPC, registered at Police Station Sector 5, District Panchkula.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

> *"TO THE DEPUTY COMMISSIONER OF POLICE PANCHKULA Sub:-Complaint against:- i) Ajay Sharma (Mob No.93504-18914) (il) Jagmohan Tiwari (Mob.No.9711730713) il) Avinash Pathak (Mob No.91-9350964588) (iv) Mr. Ashish Gupta (Mob. No.91-8958623863) (v) Mr. Surya Narayan (Mob No. 91-9582396226) (vi) Mr. Nirmal Sharma (Phone No. 911-40984470) (vii) Other co-accused to be disclosed by the*

above said accused persons For committing fraud, misrepresentation, distortion and falsification, misappropriation, embezzlement and for forging the documents etc. 8816921769 Sir the complainant submits as under:- 1 That the complainant, namely, Colonel Parminder Singh (retd.) son of Major General Bachittar Singh (retd.) is resident of House No.1096, Sector 2, Panchkula. The complainant wants to draw your attention towards the insurance company's agents/brokers and employees as to how they trap innocent people to sell. insurance policies in an unethical manner with the intention to grab the hard earned money by playing fraud and deceiving them with malafide intentions. 2 That father of the complainant, Major General Bachittar Singh (Retd.) is a senior citizen, veteran, and retired from Indian Army after dedicating 38 years of his life for the country and has now been trapped by the above said persons/agents/ employees of the insurance companies and other financial institutions. At this stage of his life, he feels aggrieved at this sought of fraud that has been committed by the accused persons with him. 3 That the father of the complainant, Major general Bachittar Singh (Retd.) was lured fraudulently for buying the policies of "Aegon Religare" (insurance company) in the- year 2010. But the agents instead of issuing one policy had fraudulently issued three policies in favour of the complainant and other family members thereafter the rather of the complainant complained in this regards and then the principle amount of premium of the said policies was refunded. 4 In the year 2014. the father of the complainant received a telephonic call through landline and mobile and the said informer told him that an amount of Rupees Five Lacs is lying pending in his account (Aegon Religare account) and further *lured him by stating that "why don't you claim this money', to which they made him deposit more money in one account or another on one pretext or the other. 5 That, thereafter the father of the complainant came under the trap of the accused persons and deposited the amount through cheques, NEFT and RTGS in various accounts and in this manner he has deposited a total amount of Rs.83.16 Lacs with the above said persons and the accused persons have assured that the said amount will be deposited in his Bank account. 6 Then, the father of the complainant received the letters from the Income Tax Department and Reserve Bank of India directing the release of his pending amount from the bank. Not only this, the HDFC Bank had issued a letter in the month of March, 2018 through the said, Surya Narayanan informing the father of the complainant that an amount of Rs.87,38,403/- is lying in the account of father of the complainant and further the accused persons sent the copy of the cheque through mail and demanded more money to deposit with them. (Copies of IT Deptt., RBI and HDFC Bank Cheque attached as Annexure A). 7 That, thereafter, the complainant contacted the accused persons and requested to return the above said amount, but the said Ashish Gupta again informed the complainant that an amount of Rs. 1,20,00,000/- (Approx.) is lying in the account and they further demanded an amount of Rs. 1,50,000/ - for the release of the same. 8 The complainant, contacted the ICICI Bank Ghaziabad and made enquiries of account No. 6268601539254 wherein most of the money was sent and also HDFC Bank Sector 63, Noida A/c No. 50100107933853 of Nirmal Sharma. He wanted to know as to how much amount is lying in the said account but the complainant was informed that the Bank cannot share* *the information about the money in the Account and the address of the person. 9 That the above said act and conduct of the accused persons indicate that the accused have cheated and played fraud with the father of the complainant and have grabbed a huge amount of Rs.83.16 lacs which was deposited by the father of the complainant through NEFT, RTGS and cheques in various accounts of the accused persons. 10 That the accused persons have illegally grabbed and kept the money of the complainant in order to cause wrongful gain to themselves and to cause wrongful loss to the father of the complainant 12. It is clear that the accused persons are hand in glove with each other, and have played fraud, misrepresentations, distortion falsification, misappropriation, embezzlement and forging the documents etc. and under the circumstances aforesaid, the accused have committed an offence under Section 406, 420, 467, 468, 471, 120-B and 506 of Indian Penal Code for having cheated and threatening for dire consequences to the complainant under their deceit full means and pretensions. It is, therefore, respectfully prayed that a strict action may kindly be taken against the accused persons as per various sections of Indian Penal Code, 1860 as the complainant and his father are the victims of the criminal intimidation of the accused persons and are also having apprehensions of danger to their lives as the accused are having criminal backgrounds and further the payment of Rs.83.16 Lacs of the complainant may kindly be recovered from the accused persons. Details of the statement of payments made to the accused persons alongwith their names, bank account number, mobile numbers and cheque numbers/NEFT/RTGS details etc are attached here alongwith as Annexure B and proofs of payments made*

> *by the father of the complainant as Annexure C respectively Thanking you, Yours faithfully Colonel Parminder Singh (retd.) son of Major General Bachitar Singh (retd.) resident of House No.1096, Sector 2, Panchkula. Dated- 01/07/2019 Mobile 9356585856.*"

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that the name of the petitioner has been nominated only on the basis of disclosure statement of co-accused Rajinder Yadav @ Nitin Bawra and that too after a lapse of five years, who is now apprehending his arrest. She further asserts that no overt act or any incriminating material has come forth against the present petitioner except the disclosure statement and no recovery is to be effected from the present petitioner which could necessitate the arrest of the petitioner at this stage.

On behalf of the State

Learned State Counsel appearing on advance notice, opposes the prayer for grant of anticipatory bail by arguing that certain material questions are to be enquired into from the petitioner who is actively involved in the commissioning of the offence along with co-accused Rajinder Yadav @ Nitin Bawra inasmuch as a fraud to the tune of Rs.83.16 lacs has taken place in a very planned manner, cheating the complainant's father of his hard earned money.

4. **Analysis**

Be that as it may, having given a considerable thought to the facts particularly the name of the petitioner which has been nominated merely on the basis of disclosure statement of co-accused Rajinder Yadav @ Nitin Bawra after a gap of 5 years which has remained unquestioned so far and Mr. Virk has also showed helplessness to produce any incriminating material except the disclosure statement or any connected material against the petitioner to force for his custodial interrogation.

5. **Decision**

In the light of above, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

> *'When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-*
>
> *(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
>
> *(ii) a condition that the person 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;*
>
> *(iii) a condition that the person shall not leave India without the previous permission of the Court;*
>
> *(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'*

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands disposed off.

(SANDEEP MOUDGIL)
27.08.2024 **JUDGE**

Poonam Negi

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*