IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M No.47652 of 2024
Date of Decision: 23.10.2024

Rakesh Y Dube @ Rakesh Yagyanarayan Dube ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Akashdeep Singh, Advocate, for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana, for the respondent-State.

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MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
219	13.07.2011	Model Town Rewari, District Rewari	420 and 406 of IPC

2. As per the prosecution case, the aforementioned FIR was registered on a complaint jointly lodged by complainants Charan Singh and Sunil alleging therein that the accused Rajinder Kumar Shah (since convicted) was Director of one M/s Inmegamall Holidays Private Limited (For short "Company") which used to deal in a product by the name of

Daily fifty Points and operated in District Rewari. An investment scheme by the name of Holiday Rewards was launched by the Company in the year 2009. The complainants used to work as agents for the Company. Whatsoever money was invested by the investors through the complainants, the same used to be directly deposited in the bank accounts as per instructions of Rajinder Kumar Shah by the complainants. In this manner, an amount of approximately Rs.35 crores had been deposited with the Company under different schemes by the investors through the complainants. An amount of about Rs.25 crores had been returned to the investors but w.e.f. May 2010, the accused Rajinder Shah stopped making any payment to the investors and since the investors had been depositing money through the complainants, therefore, they started exerting pressure upon the complainants.

3. As per the further allegations, on repeated requests of the complainants to pay money to the investors, the accused Rajinder Kumar Shah issued 11 cheques for a sum of Rs.1 crore in favour of complainant Charan Singh and assured to repay the remaining amount on monthly basis. Those cheques were deposited with the banker of complainant Charan Singh but had been dishonoured. The complainants again requested the accused Rajinder Shah, who issued three post dated cheques of Rs.45 lakhs each on 14.04.2011 in favour of complainant Charan Singh and two post dated cheques of same amount in favour of complainant Sunil. He also executed a power of attorney in favour of complainant Charan Singh qua a shop owned by him, which was claimed to be having worth of Rs.1.25 crores by

representing that the same was free from any encumbrances. A Memorandum of Understanding was also executed by Rajinder Shah in favour of the complainants. However, they subsequently came to know that accused Rajinder Shah had already executed some agreement to sell the same property qua which power of attorney was executed, in favour of some other persons. As the complainants were extended threats and harassed by the investors on account of non-refund of their money, therefore, they prayed for taking action against the accused Rajinder Kumar Shah and his Company.

4. After registration of FIR, investigation proceedings were initiated. During investigation, the accused Rajinder Kumar Shah was arrested on 11.09.2011. He was interrogated and suffered disclosure statement to the effect that the present petitioner was Chairman of the company and was having equal share holding in the same. He also disclosed that the petitioner was having one crore rupees of the company with him. The present petitioner was nominated as an accused. He was extended benefit of interim anticipatory bail. However, the said relief was subsequently declined. The petitioner had absconded. Proceedings under Section 82 of Cr.P.C. were initiated against him and he was declared a proclaimed offender by the Court of Additional Chief Judicial Magistrate, Rewari vide order dated 26.02.2013. Challan was presented against accused Rajinder Shah. He confessed to his guilt and was sentenced.

5. As revealed from the record, the present petitioner moved a petition for quashing of the order declaring him as a proclaimed person. The

said petition was allowed and the abovesaid order had been quashed. He surrendered before the trial Magistrate as on 25.07.2024 and suffered disclosure statement on interrogation. Investigation has since been completed and challan against the petitioner has been presented before the Court concerned. The petitioner had moved an application for grant of regular bail which has been dismissed by the Court of learned Additional Sessions Judge, Rewari vide order dated 31.08.2024.

6. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of disclosure statement of co-accused. He was neither named in the FIR nor any allegation had been levelled against him by the complainants. The complainants did not even appear as witnesses in the trial which was conducted as against the co-accused Rajinder Shah. The witnesses examined during that trial did not implicate the petitioner at all. The trial against him is likely to take time. He is in custody since 25.07.2024. His further detention would not serve any useful purpose. He does not have any criminal antecedents. He had resigned from the Directorship of the Company on 01.06.2010 i.e. much before lodging of the FIR and, therefore, had nothing to do with the commission of subject offences. With these broad submissions, it is argued that the petitioner deserves to be released on bail.

7. Status report has been filed. It is submitted therein and it has been argued by learned State counsel that the petitioner was the Chairperson of the Company who had induced several investors to invest money through the complainants by making lucrative promises. Infact, the company so

floated by the petitioner was a bogus company formed with intent to dupe innocent investors. The petitioner was instrumental in cheating several public persons and duping them of their hard earned money. His complicity has been duly narrated by the co-accused. The trial has commenced and there is nothing to show that there would be any undue delay in conclusion of the same. Rather it was on account of the fact that the petitioner had absconded and had been declared a proclaimed person that his trial had been delayed earlier. Keeping in view the antecedents of the petitioner, there are chances of his again fleeing from justice. He was having 47.5% shares in the company and, therefore, could not back out from his liability. As such, it is stressed that he does not deserve to be extended benefit of bail.

8. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record.

9. The petitioner who was admittedly Chairperson of the Company is alleged to have connived with the co-accused Rajinder Shah who has since been held guilty and convicted and in pursuance of a conspiracy hatched with him, is alleged to have induced several investors to invest their hard earned money in the Company floated by him. He might not the face of the Company but admittedly he was the person responsible for the affairs of the Company when money was being invested by the investors. Simply because of the fact that he had resigned from the Company subsequently, it cannot be assumed that he had no hand in commission of the subject offences. Rather even after his alleged resignation, he is shown to be sharing profits of the Company to the extent of 47.5% along with the co-accused.

The allegations prima facie show that after siphoning off huge amount of money invested by public persons he resigned from the Company. The allegations against the petitioner are quite serious in nature. Keeping in view the gravity thereof coupled with the fact that there is nothing on record to show that there would be any undue delay in conclusion of the trial and further in view of the above discussed facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

(MANISHA BATRA)
JUDGE

23.10.2024
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No