2024:PHHC:127951

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

285

CRM-M No.47040 of 2024
Date of Decision: 23.09.2024

Vinod Kumar ... Petitioner

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Amandeep Singh Manaise, Advocate, for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab, for the respondent-State.

Mr. Karan Sachdeva, Advocate,
Ms. Kanica Sachdeva, Advocate,
Mr. Kanav Goyal, Advocate,
for the respondent No.2-complainant.

***

<u>MANISHA BATRA, J. (Oral)</u>

1. The present petition has been filed by the petitioner under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") seeking anticipatory bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
179	28.08.2024	City-1 Abohar, District Fazilka	406, 420, 506 and 120-B of IPC

2. Adumbrated facts as emanating from the record are that the complainant Suman Kumar Taneja and his brother Anil Taneja were

previously running a joint business of Waxing of Kinnow fruit and manufacture/sale of plastic crates, scrap etc. Subsequently, on a dispute having arisen between them, their businesses were separated. The complainant Suman Taneja alleged that his wife Anju Bala and himself were having their personal bank accounts and they were also holding accounts in the names of their firms. Twenty one cheque books were got issued by them in the names of their firms as well as qua their personal accounts. These cheque books were found missing in the year 2020. The wife of the complainant had given information about loss of those cheque books and by giving details of the cheque numbers had made request to their banker to not to have any transaction with regard to the cheques of those specific numbers. The complainant alleged that just few days back, he came to know that one of the cheques that had been found missing from his house was going to be misused by the petitioner who was a close friend of the brother of the complainant in connivance with his brother. He alleged that the petitioner and co-accused by taking benefit of their relations had stolen cheque books from their house and were misusing the same. As such, he prayed for taking action against them.

3. It has also been revealed from the record that simultaneously, the accused Anil Taneja has also moved a written complaint making allegations that he had applied for a cheque book qua his CC account bearing No.02731300002748 on 19.01.2024 which was operative at Punjab & Sind Bank, Main Branch Lakkar Mandi, Abohar. He did not receive any cheque book. On 16.03.2024, a text message was receive on his mobile

phone regarding debit of an amount of Rs.12,47,640/- from his CC account though he has not issued any such cheque. On making inquiry from his banker, it was revealed that the cheque for the aforementioned amount was issued in favour of Anju Bala wife of complainant Suman Taneja with whom he was having disputes and Anju Rani had transferred the aforementioned amount in her account by misusing his cheque. Therefore, he prayed for taking action in the matter. However, after conducting thorough inquiry by an officer of the rank of Superintendent of Police and getting an inquiry conducted through a Special Investigation Team, FIR against the present petitioner and accused Anil Taneja was registered whereas the allegations as levelled in the complaint filed by Anil Taneja were found to be false. It was also revealed that 21 cheque books of the complainant had been lost in the year 2020 and qua closing transaction of those cheques, his wife had already given intimation in writing to her banker. One cheque beaing No.521188 out of those lost cheques had been misused by the petitioner by presenting the same before the bank and as the said cheque had been dishonoured due to any transaction on the same, already being closed, therefore, the petitioner had lodged a complaint under Section 138 of Negotiable Instruments Act, 1881 (For short “NI Act”). On these allegations, the abovementioned FIR had been registered. Apprehending his arrest, the petitioner moved an application for grant of anticipatory bail which had been dismissed by the Court of learned Additional Sessions Judge, Fazilka vide order dated 13.09.2024.

4. It is argued by learned counsel for the petitioner that he has

been falsely implicated in this case. He is running business of sale/purchase of fruits from the last 20 years. There were business dealings between the petitioner and the complainant and his wife who are running business of waxing and grading of kinnow fruits besides purchase of kinnow and manufacturing of plastic crates in Abohar. The petitioner had transferred various amounts of money on different occasions in the account of Shubham Taneja son of the complainant. During the period from 26.11.2023 to 06.12.2023, the complainant and his family purchased kinnow fruit worth Rs.20,52,850/- and as part payment of the aforementioned amount, the wife of the complainant namely, Anju Bala had issued cheque No.521188 dated 23.01.2024 for a sum of Rs.20,50,000/- in his favour. This cheque was dishonoured on 24.01.2024. The petitioner had served a legal notice upon Anju Bala but she did not respond to the same thereby compelling him to file a complaint under Section 138 of NI Act wherein she had been summoned as an accused.

5. It is, further argued by learned counsel for the petitioner that he did not receive any cheque from the complainant nor any inducement was made by him to the complainant. The ingredients for commission of offences of cheating and criminal breach of trust are at all not attracted as against him. The FIR of this case has been lodged to abuse the process of law, to harass the petitioner and as a counterblast to the complaint filed by him against wife of the complainant. Infact, there was dispute between the complainant and co-accused Anil Kumar. The petitioner has nothing to do with the same. He has a separate business. He has never been associated by

the police in any inquiry. The allegation of theft of cheque books from the house of the complainant are against the co-accused Anil Kumar Taneja and the petitioner has no role to play in the same. He is ready to join the investigation. His custodial interrogation is not required. Neither any recovery is to be effected from him. The case is based on documentary evidence. Therefore, it is urged that the petition deserves to be allowed.

6. Per contra, learned State counsel assisted by learned counsel for the complainant has submitted that there are serious and specific allegations against the petitioner who is a man of criminal antecedents. Two more cases bearing FIR No.27 dated 16.02.2024 registered at Police Station Hindumalkot and FIR No.98 dated 10.07.2020 at Police Station Sadar Abohar, are pending against him. The petitioner hatched a conspiracy with the co-accused and in pursuance of that conspiracy, the co-accused Anil Kumar Taneja had stolen the cheques issued in the name of the complainant and his wife and one of these cheques bearing No.521188 was misused by the petitioner by writing/adding an amount of Rs.20,50,000/- in the same. The wife of the complainant has been implicated in a case under Section 138 of NI Act on account of dishonour of the said cheque. It is submitted that custodial interrogation of the petitioner is required for conducting thorough investigation in the matter. Even otherwise no extraordinary circumstance has been made out for granting benefit of pre arrest bail to the petitioner. Therefore, it is urged that the petition does not deserve to be allowed.

7. I have heard learned counsel for the parties at considerable length and have gone through the record.

8. The co-accused Anil Taneja and his family members who were having joint business with the complainant and his wife are alleged to have conspired with each other and with the present petitioner and in pursuance of that conspiracy, they are alleged to have stolen cheque books issued in the name of the complainant and his wife. As per the further allegations, one of those cheques which were bearing signatures of wife of the complainant was misused by the petitioner by writing an amount of Rs.20,50,000/- over the same and by implicating the wife of the complainant in a case under Section 138 of NI Act due to dishonour of the said cheque. Learned counsel for the complainant has placed on record copy of an application moved by the wife of the complainant before the Branch Manager, Punjab and Sind Bank Abohar on 17.03.2020 informing that the cheque books issued in her name had been lost and making prayer for not making any transaction qua the said cheques previously issued in her favour except the cheques bearing No.546101 to 546120 which were issued on that day in her favour. The details of the cheque numbers which were lost by her had been annexed along with this application. A copy of issuing slip/customer request dated 17.03.2020 is also annexed with this application which shows that cheque book bearing No. 546101 to 546120 had been issued in favour of Smt. Anju Bala on that date.

9. Learned State counsel has placed on record copy of advise given by District Attorney (Legal) showing that the cheque bearing No.521188 for sum of Rs.20,50,000/- had been reported to have lost as on 17.03.2020 and the wife of the complainant had made request for closure of

transaction qua those cheques. Learned counsel for the petitioner has not raised any serious objection to the plea taken by the complainant's counsel to the effect that the cheque No.521188 had been lost as in the year 2020 and any transaction on the said cheque and some other cheques had been ordered to be closed/stopped by the wife of the complainant by writing letter dated 17.03.2020 to her banker. It is also revealed that the same cheque No.521188 has been alleged to have been issued by the wife of the complainant in favour of the petitioner and it is on account of dishonour of the same that she is facing trial.

10. The inquiry conducted by SIT and an officer of the rank of SP before registration of FIR of this case indicates that the accused Anil Taneja in connivance with his family members had caused disappearance of some cheques belonging to complainant and his wife obviously with a view to cause wrongful loss to them and one of those lost cheques has been alleged to have been issued by the wife of the complainant in favour of the petitioner. It can be reasonably and prima facie presumed that the wife of the complainant would not have issued cheque in the year 2024 in favour of the petitioner which she herself claimed to have been lost in the year 2020 and qua which she had given information in writing to her banker. This fact itself points towards the complicity of the petitioner with the co-accused to cause wrongful loss to the complainant and his wife and to avail wrongful gain for himself and the co-accused. Keeping in view the nature of the allegations, a thorough investigation is certainly required to be conducted in the matter to elicit the truth and for that purpose, the custodial interrogation of the

petitioner is required. It is well settled proposition of law that custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order of anticipatory bail. The investigation is at nascent stage. The Court has also to see that an order of anticipatory bail should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

(MANISHA BATRA)
JUDGE

23.09.2024
manju

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