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

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CRM-M-64355-2023
Date of decision: 08.01.2024

MONISH MITTAL

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Rakesh Nehra, Sr. Advocate with
Mr. Sauhard Singh, Advocate &
Mr. Harshit Jain, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

Mr. Namit Gautam, Advocate with
Ms. Kumud Shekhar, Advocate
for the complainant.

<u>KULDEEP TIWARI. J.(Oral)</u>

1. The instant petition has been filed by the petitioner for grant of pre-arrest bail in case FIR No.395 dated 15.06.2023, registered under Sections 120-B, 408 and 420 of IPC, at Police Station Sadar Gurugram, District Gurugram, Haryana.

2. Learned Senior counsel for the petitioner submits that the petitioner was an Accountant of the MDM Televentures PVT LTD, and has nothing to do with the transfer of funds, as alleged in the instant FIR. Learned Senior counsel for the petitioner further submits that as per the FIR (supra), the company was being run by the Director i.e. Ashok Kumar Sahni (present complainant). Ms. Silka Saloni and Mr. Pradipto Ganguly, and the present petitioner was working under the instructions of the Director. Learned Senior counsel for the petitioner

also submits that in fact one Ms. Supriya Nakra, was authorized signatory of the complainant company, and she is the approver of OTP, and also her mobile number is registered in the account of the complainant company. Learned Senior counsel for the petitioner further submits that in fact it was the complainant/Director, who in order to cheat, himself transferred the amount to different companies, and these companies belongs to the daughter and sister-in-law of the present complainant. Therefore, the instant FIR is registered with a clever mind, and with an intention to wriggle out of the FIR registered against the complainant himself. Further submissions as made by the learned Senior counsel for the petitioner, that the balance sheet, which was uploaded on the portal of Ministry of Corporate Affairs, clearly reveals that there is nothing due towards the RVD, which belongs to the family of the petitioner. Lastly, while mentioning the conduct of the complainant, the learned Senior counsel for the petitioner submits that the complainant is also a co-accused with the present petitioner, in four other FIRs, in which the petitioner is an accused. Learned Senior counsel for the petitioner further submits that the petitioner is either on bail, or on pre-arrest bail in all those FIRs, whereas, the complainant is running from the clutches of law**.**

3. The instant FIR has been registered by the complainant-Ashok Kumar Sahni, and the crux of the allegations reads as under:-

> *"COMPLAINT AGAINST ACCUSED MR. MONISH MITTAL AND OTHERS (DETAILS ATTACHED) FOR SIPHONING OFF MORE THAN 30 (THIRTY) CRORES RUPEES FROM THE ACCOUNT OF M/S MDM TELEVENTURES PVT LTD, ADDRESS, GURUGRAM UNDER SECTION 406, 409, 420, 423, 468, 467, 471 120B IPC COMPLAINANT: MR. VIVEK SHARMA, AGED ABOUT 47 YEARS, R/o 14-a, RSEB Colony, D Block. Vaishali Nagar, Jaipur, Rajasthan, Authorised Representative and Special Power of Attorney Holder for and on behalf of SRI ASHOK KUMAR SAHANI, AGED ABOUT 71 YEARS. Address of Sri AKS. Director of*

MDM Televentures Private Limited. FACTS OF THE COMPLAINT: That Sri Ashok Kumar Sahani have been a Director in MDM Televentures Pvt Ltd. however since August 2021, he was seriously sick and because of his sickness, he was unable to look after the business of M/s MDM Televentures Pvt Ltd and assigned his authority to Ms Silka Saloni Biswas who was also a Director in year 2021. That Mr. Monish Mittal was the accountant in the Company and used to do all bank related transaction under the instructions of other Director Ms. Silka Saloni and CEO of the Company Sri Pradipto Ganguli. That Mr. Ashok Kumar Sahani was a Non-active Director and aforesaid persons looked after the business activities, an affidavit of this effect was also prepared in year 2022 which is being annexed for your perusal. That in year 2022, Mr. Ashok Kumar Sahani had gone through Bye-Pass Surgery of his heart and was unable to visit office and believed on the representations made by Ms Silka Saloni, Pradipto Ganguli and Mr. Monish Mittal. That in 2022, there was default in payment of the Bank Loan (State Bank of India. MG Road. Gurgaon A/c No 40469785077) and it was only informed when the accounts of the Bank was freezed, however Mr Pradipto Ganguli and Monish Mittal represented that they will resolve the issues with the Bank. Ms Silka Saloni resigned from the Directorship on 6 April, 2022 and thereafter Mr Pradipto Ganguli became the Director from back date. That whenever the statements of Bank Accounts of company and other financials/ ledgers etc were asked from the accountant Mr. Monish, he avoided to handover the same to the Complainant and only limited information was given to him and Mr Monish assured that everything is fine and the business issues shall be resolved. That in the month of November 2022, Mr Pradipto Ganguli and Mr Monish Mittal apprised me that the Company is making loss and all business activities are stopped and to minimize further losses it would be advisable to sell off the company to some other persons/ company and liability of the Bank approx. Rs.Six Crores and other stakeholders approx. 20 crs shall be transferred to them. That when the complainant through other employees inquired into the affairs of the Company and found that there has been gross misconduct and Mr Monish in conspiracy with many others has been siphoning money and till date, he has already siphoned more than 30 Crores of Rupees from the Company's accounts since Financial year 2019-2020, FY 2020-2021 and in FY 2021-

2022 with the help and assistance of other Director/s and his relatives and associates in whose accounts the money has been transferred. THE SUSPICIOUS SIPHONED TRANSACTION OF THE TWO BANK ACCOUNTS OF THE COMPANY ARE DETAILED IN ANNEXURE- A (Al- Pages 1. A2 Pages 2, A3 Pages 1, A4 Pages 0, A5 Pages 12 AND ANNEXURE-B (SCB Pages 1-34). That it also came into the knowledge of complainant that the Mobile Numbers in Bank was also changed for online transaction wherein' OTP could be received and further Mr Monish has given his mobile numbers as the MAKER and APPROVER both in the Bank accounts of the Company. Further it came to the knowledge that he has also instructed the Banks to hide the details of transaction in the Bank Statement with a clear motive and prior intent of cheating and has caused Criminal Breach of Trust being the employee/ agent of the company. That It also transpired that he has utilized the Bank's overdraft/CC limit also in siphoning money to various companies which are owned/controlled by his relatives/friends/associates. It has also transpired that he is also Director in many companies and have availed various Loan from Banks in the name of those companies after using the siphoned money from the account of M/s MDM televentures Pvt Ltd THE DETAILS OF BENEFICIARY WISE TRANSFER OF FUNDS FROM MDM TELEVENTURES PVT LTD WITH DETAILS AS TO WHAT OTHER COMPANIES THESE BENEFICIARIES ARE OPERATING ARE ANNEXED AS ANNEXURE-A (AI-A4) That all the aforesaid persons/company who has received money in conspiracy with Mr Monish Mittal are detailed in ANNEXURE-C. That it is also stated that some of the employees have also received huge amount of money in their account aside their Normal Salary and they have stated that they withdrew cash from their account and handed over same to Mr Monish. The DETAILS OF EMPLOYEES AND THE SIPHONED TRANSACTIONS ARE GIVEN BELOW AS ANNEXURE-D That it is also stated that some of the Area Distributors have also filed complaint cases at various places in Haryana, Dehradun etc against Mr Monish Mittal and other persons looking after the business affairs of MDM Televentures Pvt Ltd as they claim that the company MDM Televentures Pvt Ltd is a Debtor to them and the said Mr Monish Mittal and his associates have Cheated them and this Complainant/ informant is also being alleged by virtue of being a Director of the Company. That 1 pray to you to investigate into the *criminal acts done by Mr Monish Mittal and Other Accused and recover the money of M/S MDM Televentures Pvt Ltd which has been siphoned and used by the accused person and register an FIR against the accused persons under appropriate sections of IPC and other laws as may be applicable. That Medical records of Sri Ashok Kumar Sahani is being enclosed alongwith the Special Power of Attorney with documents as and when required through the undersigned."*

4. The asked for relief of pre-arrest bail of the petitioner was opposed by the learned State counsel. A detailed reply was filed on the last date of hearing, and as per the said reply, it has been transpired during investigation that the present petitioner was an accountant in the company, and he used to do all bank related transactions under the instructions of Ms. Silka Saloni Biswal and CEO of the company Pradipto Ganguli. It has been further transpired from the investigation that the petitioner has transferred huge amounts in the account of RVD Sales Pvt. Ltd and AR Associate. The relevant part of the reply reads as under:-

" That the investigation of the present FIR was conducted by ASI Ajit. During the course of investigation, the bank statement of account no. 38352978341 of the complainant was obtained from State Bank of India. From the bank record, it came forth that Monish Mittal, in conspiracy with Pradipto Ganguli and Silka Saloni Biswal, got transferred an amount of Rs. 2,55,00,000/- from the account of RVD Sales Pvt. Ltd. in the account of complainant company ie. MDM Company, without there being any business dealings. Thereafter, the sum of Rs. 4,03,25,000/- was re-transferred in the account of RVD Sales Pvt. Ltd. Likewise, amount of Rs. 1,56,00,000/- was transferred in the account of complainant company from AR Associate and then the amount of Rs. 2,16,00,000/- was re-transferred to the account of AR Associate. In similar manner more amount was illegally transferred to the account of Dynamic Sales, SM Foods Firm etc. In this way, the petitioner Monish Mittal, in connivance with Pradipto Gangoli and Silka Saloni Biswal, by misusing their position, caused

wrongful loss to the complainant company. That further, from the record of the said companies obtained during the course of investigation, the said companies were found to be belonging to Rajkumar Mittal (father of the petitioner), Sanjay Mittal (uncle/chacha of the petitioner), Amita Mittal and Nidhi Singla (aunt/chachi of the petitioner). The petitioner has been found to be the partner in RVD Sales and SM Foods."

5. On the other hand learned counsel for the complainant vociferously opposed the grant of pre-arrest bail to the petitioner, on the ground that the petitioner is the main accused, who is handling the affairs of the company, and is taking undue advantage in the absence of the main director, who was seriously ill. Learned counsel for the complainant further submits that the petitioner is involved in four other cases, therefore, he is a habitual offender of committing cheating and forgery etc.

6. This Court with the able assistance of both the learned counsel for the parties, has meticulously examined the entire matter, and find that the instant petition is not fit for grant of pre-arrest bail, and the reasons are not one but many. Firstly, the petitioner has not approached this Court with clean hands. The petitioner in this instant petition has claimed that he is simply an accountant and has nothing to do with the transactions, whereas, as per the investigation there are huge transactions from the account of the complainant company, towards the company of RVD Sales, in the said company-RVD Sales, the family members of the petitioner have direct interest. There is also a similar transaction of huge amount in the account of Dynamic Sales, SM Foods Firm etc., without there being any business dealings of them with the complainant-company. This aspect has been concealed by the petitioner in the present petition. In fact, the petitioner has filed the instant bail application with the defence that he has no concern whatsoever, with the transaction of amount and he is not even a beneficiary,

simply because he is an accountant. But the averment of the present petitioner belies from the specific reply filed by the State, which clearly depicts that it was in fact the petitioner, or his family members, who are beneficiaries of the above transactions, without there being any business relation with the complainant company. Though, now the petitioner is trying to justify the above transactions by placing on record some of the statement of accounts, but that cannot be considered at this stage, as the stand of the present petitioner was that he has no control over the business transactions of the complainant company. Therefore, the petitioner cannot be allowed to **chop and change**, by placing on record some statements of accounts. The petitioner has strengthen the allegations of the prosecution.

7. Keeping in view the conduct of the petitioner, who in fact tried to take this Court for a ride, and has in fact chosen to conceal the material facts. This Court is not inclined to grant the relief of anticipatory bail to the petitioner. The conduct of the petitioner is deprecated, and this Court has no hesitation in saying that the petitioner has not approached this Court with clean hands.

8. Be that as it may, in view of the specific role attributed to the present petitioner, and the conduct of the petitioner, the present petition is hereby ordered to be **dismissed**.

9. It is further made clear that any observation made hereinabove, are purely to decide the issue of pre-arrest bail, and the same should not have any bearing upon the investigation or the trial of the case.

(KULDEEP TIWARI)
JUDGE

08.01.2024
amandeep

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No