

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-44481-2014

Date of decision: 21.08.2015

Pankaj Sheth and another

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

PRESENT: Mr. Rohan Mittal, Advocate for the petitioners.

Mr. Gazi Mohd., DAG, Punjab.

R.P. NAGRATH, J. (ORAL)

The instant petition under Section 438 Cr.P.C. has been filed by petitioners, namely; Pankaj Sheth and Anand Sheth, seeking anticipatory bail in FIR No. 60 dated 05.03.2014 registered under Sections 420/120-B of the Indian Penal Code at Police Station Focal Point, Ludhiana.

When this case was listed on 29.12.2014, following order was passed:-

“Learned counsel for the petitioners contends that the present petitioners, who are accused No. 6 and 7, were the guarantors. There is a dispute regarding payment on account of supply of nut bolts by the complainant.

Notice of motion for 9.2.2015.

In the meanwhile, the petitioners are directed to

join the investigation within next 7 days and disclose all the facts to the police. In the event of arrest of the petitioners, they will be released on interim bail to the satisfaction of the Arresting Officer, subject to compliance of conditions contained in Section 438(2) Cr.P.C.”

In deference to the order dated 19.05.2015, learned State counsel has filed additional affidavit of Sh. Pamod Ban, IPS, Commissioner of Police, Ludhiana in Court today and the same be taken on record.

I have heard learned counsel for the petitioners, learned State counsel and carefully perused the paper-book with their able assistance.

Learned counsel for petitioners contends that petitioners are commission agents for the past about 40 years and having dealing with the complainant since then. The petitioners introduced the complainant to the accused who are close relatives and running business in the name of 2/3 partnership firms. Those firms were introduced by petitioners to the complainant party for the supply of goods. Initially, the payment was made to the complainant party but thereafter the payment of goods worth about ₹ 31,60,000/- supplied to those firms was not made. The other accused persons also issued cheques for the said amount in favour of complainant but the same bounced.

In a nutshell, allegation against the petitioners was that they introduced those firms with the complainant party and played an active part in defrauding the complainant of the goods of huge amount.

In the affidavit filed by learned State counsel in Court today,

it is revealed that there are in all seven accused persons including the petitioners. The other five accused persons are (i) Anil Bhai Shah, (ii) Sanjay Patel, (iii) Bharat Bhai Patel, (iv) Raju Bhai Patel and (v) Hari Bhai Patel, out of them Anil Bhai Patel and Sanjay Patel were arrested. One accused, namely; Bharat Bhai Patel has since been granted concession of pre-arrest bail. It is also stated in the affidavit that proceedings to declare two other accused, namely; Raju Bhai Patel and Hari Bhai Patel as proclaimed offenders have been initiated.

Learned counsel for the petitioners submits that the only role played by petitioners is that they have introduced the complainant party with the main accused persons. It is further submitted that the complainant party is still doing business with petitioners after the registration of FIR.

On instructions from ASI Tarsem Singh, learned State counsel submits that petitioners have joined the investigation.

Looking into the fact and circumstances of the case and without expressing any opinion on merits of the case, the instant petition is allowed and the interim bail granted to the petitioners vide order dated 29.12.2014 is made absolute and the petitioners shall abide by the conditions as enshrined in Section 438 (2) Cr.P.C. However, the petitioners are also directed to keep co-operating with the investigation, especially, with regard to location of two accused persons, namely; Raju Bhai Patel and Hari Bhai Patel, who are still to be arrested.

August 21, 2015
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(R.P. NAGRATH)
JUDGE