

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-40526-2017

Date of decision: 30.10.2017

Arjun Devendra Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

**CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

PRESENT: Mr. Dhruv Ahuja, Advocate for the petitioner.

**RAMENDRA JAIN, J. (ORAL)**

1. Prayer in the instant petition under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner, in case FIR No. 27 dated 18.01.2017 registered under Sections 406, 420, 465, 467, 468, 471 and 120-B IPC at Police Station Civil Lines, Amritsar.

2. Mr. Amit Sharma, Advocate has filed Vakalatnama on behalf of complainant-HS Tanwar, in Court today. The same is taken on record. Office to tag the same at the appropriate place.

3. According to the prosecution, the complainant-HS Tanwar, as a Managing Director of M/s Green Valley Organic Foods Ltd., was exporting various eatable items including vegetables to Pakistan, through his Customs House Agent (in short-'CHA') namely "Puri Brothers". However, the petitioner introduced another CHA, namely; Vinayak Sachdeva @ Vicky and, therefore, the complainant exported a big consignment of Tomatoes

through him. When the complainant did not receive his payment from his purchaser of Pakistan in time, the complainant contacted him and came to know that the purchaser had already made the entire payment to the CHA, namely; co-accused, Vinayak Sachdeva @ Vicky, who under false invoices usurped the amount receivable by the complainant and, thus, the petitioner in connivance with aforesaid co-accused, Vinayak Sachdeva @ Vicky cheated the complainant.

4. Learned counsel for the petitioner contends that the main accused in the instant case is Vinayak Sachdeva @ Vicky. The petitioner had only introduced the said Vinayak Sachdeva @ Vicky-CHA to the complainant. The petitioner had never been the beneficiary of the transactions in between the complainant and Vinayak Sachdeva @ Vicky, aforesaid. Co-accused of the petitioner, namely; Ajay Soni has already been granted the concession of anticipatory bail by this Court vide order dated 12.10.2017 (Annexure P-3) and, thus, treating the case of the petitioner on the same parity, he may be granted anticipatory bail.

5. On the other hand learned counsel for the complainant has vehemently opposed the bail of the petitioner submitting that the petitioner in connivance with aforesaid Vinayak Sachdeva @ Vikki, is also instrumental in usurping the money of the complainant. In fact, the petitioner is the main person, who used the export licence of the complainant by introducing Vinayak Sachdeva @ Vicky as a genuine CHA, though he was his own man. The petitioner in connivance with the aforesaid Vinayak Sachdeva @ Vicky, by preparing forged invoices showing under price of the Tomatoes, exported the same to Pakistan to

consent of the complainant. The petitioner is an influential person. A preliminary enquiry was conducted by a Senior IPS Officer of the rank of Assistant Commissioner of Police, EAST, Amritsar City, in the year 2014 for this very episode. In his report, he held that Vinayak Sachdeva @ Vicky, in connivance with his co-accused Arjun Kumar Soni @ Rinku Soni (petitioner herein) and Ajay Soni, had prepared fake bills of lower rates of the goods received from Nasik, Maharashtra for sending the same to Pakistan by appending false and fake signatures of the complainant thereon, dispatched the goods to Pakistan to M/s International Imran Yousuf and Company, Lahore, Pakistan through CHA. Due to non-receipt of full payment thereof by the complainant, he could not made the full payment to the supplying persons at Nasik, Maharashtra, against which the petitioner got registered a false FIR against the complainant as a counter-blast. He further contends that despite coming of this enquiry report in the year 2014, the police did not register the case against the petitioner, who is a influential person, therefore, the complainant approached this Court and with the intervention of this Court, present FIR was registered in which custodial interrogation of the petitioner is required. Even the Enforcement Directorate and other Government Investigating Agencies, are also enquiring into the matter against the petitioner and his co-accused.

6. Considering the overall facts and circumstances, the case of the petitioner cannot be treated at par with that of his co-accused, namely; Ajay Soni, who has already been granted anticipatory bail vide order Annexure P-3, because the same was granted in the absence of any representation from the complainant side, therefore, true and correct facts had not come on the record, at that time. Since, according to the complainant, it is a big scam,

therefore, in the considered opinion of this Court, the petitioner is definitely required for custodial interrogation. Hence, the instant petition is dismissed.

October 30, 2017  
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( RAMENDRA JAIN )  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |