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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ BAIL APPLN. 37/2017

KAILASH AGARWAL & ORS

..... Petitioner

Represented by: Mr. S. Krishnamurthy, Adv.

versus

STATE

..... Respondent

Represented by: Mr. Hirein Sharma, APP with SI Aditya PS Rajouri Garden. Mr. Sudhir Nandrajog, Sr.Adv. with Mr. Neeraj Grover, Adv. for complainant.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

<u>O R D E R</u>

% **03.02.2017**

1. Vide order dated 10th January, 2017, learned counsel for the petitioner submitted that he is confining the present petition only in respect of petitioner No.1 seeking anticipatory bail in case FIR No.600/2016 under Sections 379/420/468/471/120B IPC.

2. Learned counsel for the petitioner contends that FIR was registered belatedly after a period of three years. Parties were having financial relationships besides being relatives. The petitioner has been falsely implicated. Even on the averments in the FIR no offence is made out. In any case the territorial jurisdiction to investigate and try the alleged offences

is at Hyderabad and thus the FIR was wrongly registered. Further after the grant of interim protection, petitioner has already joined investigation and he would cooperate with the investigation as and when required. No recovery is required to be made from the petitioner.

3. The allegations of the complainant in the FIR are that the complainant's company was in business relations with four companies namely Good Health Agro Pvt. Ltd. (in short GHAT), Nikhil Refineries Pvt. Ltd. (in short NRPL), KGF Cotton Pvt. Ltd. (in short KGF) and Amrita Oils & Cotton Pvt. Ltd. (in short AOCPL) which were private limited and family owned companies with common promoters, shareholders and directors. The four accused companies were engaged in the business of processing and selling of edible oils after procuring raw material through import. Though allegations are against all the 13 directors of the four companies alleging that they are in-charge and looking after day-to-day affairs of business of processing and selling of edible oils, primary allegations relate to the petitioner and one Subhash Chandra Aggarwal. In the year 2006 the petitioner representing GHAT group approached the complainant for financial assistance in setting up credit facilities for expansion of business of GHAT group by importing goods through the company of the complainant and then sell the same to GHAT group. The first meeting was held at the office of common friend namely Surendra Kumar Aggarwal at D-3, Ring Road, Rajouri Garden where the petitioner and Subhash Chandra Aggarwal were present and negotiations were held. Considering the family relationships, the complainant agreed to render financial assistance. Business commenced from the year 2006 through one of the companies of

the complainant M/s. Haldiram Products Pvt. Ltd. All goods imported as per the request of the accused persons and all goods so purchased from importers were sold to GHAT group and none others. In 2011 since the volume of business increased substantially, the complainant at the insistence of the accused persons decided to carry out business through his other company M/s. Coral Products Pvt. Ltd. As per the Oral agreement accused persons used to place orders to foreign supplier of Singapore, Indonesia and other countries on behalf of the complainant company and thereby the foreign suppliers after getting Letter of Credit used to send goods on High Sea Port of delivery at Kakinada, near Hyderabad. The High Sea invoice was sent to the complainant company through e-mail. Various meetings took place at D-3, Ring Road, Rajouri Garden between the petitioner, Subhash Chandra Aggarwal and the complainant after receiving High Sea invoice from the exporter. As per the terms and conditions of Oral agreement, a High Sea Sale Agreement was drawn for each invoice in favour of GHAT group as per the instructions of the accused persons. The said High Sea Sale Agreement used to be signed by Manu Grover, authorized signatory of M/s. Coral Products Pvt. Ltd. and the High Sea Sale invoice was signed by Ashok, Accountant of M/s. Coral Products Pvt. Ltd. The documents so prepared were sent to the accused persons at their office/ residence situated at Hyderabad along with Bill of Exchange, Delivery Note, shipping documents etc. After receiving documents accused persons used to sign the High Sea Sale Agreements and High Sea Sale invoice and took delivery of goods from the ports. During the course of business since huge outstanding amounts were due towards the accused, they were asked to clear the dues. In January 2013 the petitioner visited Delhi and a meeting was held at D-3, Ring Road, Rajouri Garden wherein balance sheets of GHAT group were provided, however petitioner expressed his inability to repay the amount. The balance sheet revealed huge losses indicating the malafide intention of the accused. It is alleged that the petitioners stole the blank letter heads of M/s. Coral Products Pvt. Ltd. lying unattended and the stolen letter heads were then used to prepare forged letters of M/s. Coral Products Pvt. Ltd. by putting counterfeit seals and signatures to get discounting of invoice/ LC from Bank of India, Hyderabad. The complainant came to know these facts on receipt of notice from State Bank of Mysore, Hyderabad in relation to inquiry in respect of business of GHAT group.

4. During the course of investigation it was found that fake seals of M/s. Coral Products Pvt. Ltd. had been used. The one imposed on the documents sent by the complainant were different than the ones imposed by the accused persons. Further during investigation conducted from Bank of India and State Bank of Mysore, Hyderabad and certified copies of alleged forged documents pertaining to discounting on behalf of M/s. Coral Products Pvt. Ltd. revealed that the letters used for discounting LC bills was never issued by the complainant company. The signatures on behalf of complainant were found to be forged.

5. Learned APP for the State submits that this Court granted interim protection to the petitioner vide order dated 10th January, 2017 where after notice was served on the petitioner to join investigation on 23rd January, 2017. On 23rd January, 2017 petitioner joined the investigation but did not provide any document and on the next date i.e. 27th January, 2017 which

was fixed for joining investigation he did not appear and a letter was sent that he was feeling unwell.

6. Considering the allegations against the petitioner, this Court finds no reason to grant bail to the petitioner who is the main accused in the FIR. Petition is dismissed.

MUKTA GUPTA, J.

FEBRUARY 03, 2017
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