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

**CRM-M-33447-2018 (O&M)
Date of Decision: 06.08.2018**

Amandeep Singh alias Aman**....Petitioner**

Versus

State of Punjab**....Respondent****CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: - Mr. P.S. Ahluwalia, Advocate
for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Prayer in the instant first petition under Section 438 Cr.P.C. has been made for grant of pre-arrest bail to petitioner Amandeep Singh @ Aman in a case arising out of FIR No. 114 dated 19.06.2018, registered under Sections 406 & 420 of the Indian Penal Code at Police Station Sadar Patiala, District Patiala.

According to the prosecution, the petitioner ordered for supply of two trucks of Kiwi fruit to the complainant's company who deals in export and import of fruits through its agent-Ganesh Magan Chaudhary. Consequently, two trucks of Kiwi fruit, weighing approximately 23,620 kg., valuing total Rs. 33,68,000/-, were delivered at the shop of the petitioner on 16.03.2018 at Patiala. Though the payment was to be paid at the time of the delivery of the consignment, but the petitioner lingered on the payment on one pretext or the other. Finally, on 22.03.2018, the petitioner got issued a cheque from one Khushvir Malhotra for Rs. 12,00,000/- in favour of the complaint's Company on the pretext that he had not sufficient money to pay the complete price of the consignment.

Learned counsel for the petitioner has relied upon the judgment of Hon'ble Supreme Court rendered in the case of ***Veer Prakash Sharma Versus Anil Kumar Aggarwal and another, 2007(3) RCR (Criminal) 960***; to contend that non-payment or under-payment of the price of the goods by in itself does not amount to commission of an offence of cheating or criminal breach of trust. According to invoice (Annexure P-2), the consignee and buyer is Mr. Khushvir Malhotra. There is no proof on record regarding supply of any fruits to the petitioner. He has been

falsely implicated in this case.

I have heard learned counsel for the petitioner.

The story is not so simple as has been projected before this Court. It seems that there is intentional cheating. Story put forth by the complainant cannot be disbelieved simply on the ground that the invoice is in the name of some other person and the cheque against the invoice was issued by one Khushvir Malhotra. The complainant has specifically alleged that it had supplied the consignment of Kiwi fruit to the petitioner, who got issued the cheque from Khushvir Malhotra on the pretext that he was not having sufficient funds in his bank account. The work place of the complainant is Bangalore (Karnataka) which is a far away place from the place of the petitioner. Therefore, it was not possible for the complainant to falsely implicate the petitioner, unless he had ordered for supply of a bulk load of Kiwi fruit, having the value of approximately Rs. 34,00,000/- (Rupees Thirty Four Lacs).

In totality of the facts, this Court finds no merit in the instant petition for the reasons that there is serious allegation of non-payment of a huge amount of Rs. 33,68,000/- by the petitioner while committing breach of trust and cheating the complainant. Therefore, custodial interrogation of the petitioner is very much needed to unearth the true genesis. The facts and circumstances of the case ***Veer Prakash Sharma (supra)*** are completely distinguishable from the facts of the present case. Therefore, no benefit of the same can be extended to the petitioner.

Consequently, the present petition is dismissed.

6th August, 2018
shabha

(RAMENDRA JAIN)
JUDGE

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