

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

(I)

CRM-M-39526-2018 (O&M)

Date of Decision:-17.1.2019

Vaibhav Goyal and another

... Petitioners

Versus

State of Haryana

... Respondent

(II)

CRM-M-61879-2018 (O&M)

Smt. Mithlesh Kumari Goyal and another

... Petitioners

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Kunal Muthrerja, Advocate,
for the petitioners in CRM-M-39526-2018.

Mr. J.S. Bedi, Senior Advocate with
Mr. Lovekirat S. Chahal, Advocate,
for the petitioners in CRM-M-61879-2018.

Mr. Ashok Singh Choudhary, Addl. Advocate General, Haryana.

Mr. Amit Chaudhary, Advocate for the complainant.

GURVINDER SINGH GILL, J.

1. This order shall dispose of the aforesaid two petitions filed on behalf of the petitioners, Vaibhav Goyal, Subhash Chand, Smt. Mithlesh Kumari Goyal and Ram Gopal Goyal, whereby the petitioners seek grant of anticipatory bail in respect of a case registered vide FIR No.304 dated 29.7.2018 at

Police Station Faridabad Old, District Faridabad under Sections 34, 406, 420, 467, 468, 471 and 506 of Indian Penal Code, 1860.

2. The FIR, in the present case, was lodged at the instance of Mukesh Gupta, wherein it has been alleged that he is running a petrol pump and is also into business of 'Tarcoal' and that he knows the accused Smt. Mithlesh Goyal, Proprietor M/s Laxmi Narayan Ram Gopal, her husband Ram Gopal, Subhash Goyal and Vaibhav Goyal since long, who have an established business of sugar and vegetable ghee at Ballabhgarh. It is alleged that the accused approached the complainant requesting him to advance an amount of ₹2 crores as they were in dire need of the same for their business and upon their assurances to return the same, the complainant, in the year 2015, raised a loan of ₹2.20 crores by mortgaging his property with the bank and transferred an amount of ₹1.97 crores to the firm of the accused through RTGS. It is alleged that although an amount of ₹66,56,000/- was returned by accused subsequently but an amount of ₹1,30,44,000/- is yet to be recovered.
3. It is further the case of the complainant that subsequently upon demands made by the complainant, the accused held out an assurance that they are going to buy a house measuring 500 Sq.Yds. (approax.) in Sector 10, D.L.F. Faridabad and they shall make the complainant and his wife as a partner in the same. However, subsequently the complainant came to know that although the accused had purchased the house but the complainant or his wife were not associated as a partner in the same. It has thus been alleged that the complainant has been deprived of huge amount by holding out false promises.

4. The learned counsel for the petitioners have submitted that the petitioners have falsely been implicated in the present case and that infact not even a single penny is due to be paid to the complainant as the balance amount of ₹1,30,44,000/- has virtually been settled as paid since sugar valued much more than the said amount has been sold by 'M/s Laxmi Narayan Ram Gopal' to complainant. The learned counsel, in this context, has drawn the attention of this Court to various invoices issued by the firm M/s Laxmi Narayan Ram Gopal during the period 1.1.2016 to 31.3.2016 annexed with the petition as Annexure P-6, which reflect that 'M/s Laxmi Narayan Ram Gopal' had sent several consignments to several of the customers. The learned counsel has further drawn the attention of this Court to the details of the 'VAT' deposited during the first quarter of 2016 year and has contended that since the statement pertaining to 'VAT' shows that the value of goods sold is more than ₹4 crores, the same corroborates the invoices pertaining to sale of suger/ghee even though the signatures of consignees are not there on the said invoices.
5. Opposing the petitions, the learned State counsel assisted by learned counsel for the complainant, has submitted that aforesaid invoices have been fabricated by accused so as to escape from the liability to repay the loan and that in any case there was no such agreement between the parties that the accused could get the repayment of loan adjusted against the proceeds of sale of suger/ghee. The learned State counsel has further submitted that in any case the complainant, who is into business of petroleum, would not purchase huge amount of suger/ghee, which is not his trade or business. It has thus been prayed that the petitions being devoid of merits, be dismissed.

6. I have considered rival submissions addressed before this Court.
7. Although, the learned counsel for the petitioners has tried to build up a case that repayment of loan stands adjusted towards the sale price of sugar/ghee allegedly sold by the firm 'M/s Laxmi Narayan Ram Gopal' of which Smt. Mithlesh Kumari Goyal is the sole proprietor, but in the absence of any concrete evidence to suggest that the aforesaid suger/ghee had indeed been received by the complainant, this Court would not like to comment upon the same at this stage. However, the said issue could certainly be debated at the time of trial, when the entire evidence is led, wherein the authenticity of the invoices may be established. However, all said and done, the present case apparently is fall-out of some commercial transactions between the parties. The firm, to whom the amount of ₹1.97 crores had been advanced, is under the sole proprietorship of Smt. Mithlesh Kumari Goyal aged 60 years. While Ramgopal Goyal is her husband, the other two accused although related to the petitioners cannot be said to be directly related with the firm 'M/s Laxmi Narayan Ram Gopal'. While the amount in question is stated to have been advanced in the year 2015, the FIR came to be lodged in the year 2018 and which could suggest that it is not a case where the accused can be said to have any intention to defraud the complainant right from day one.
8. Having regard to the facts and circumstances of the case and bearing in mind the fact that the case in hand apparently pertains to fall-out of some commercial transaction amongst the parties and also keeping in view the age of the main accused i.e. the Proprietor Smt. Mithlesh Kumari Goyal and her husband Ramgopal Goyal which is stated to be 60 years and 61 years, respectively, in my opinion, it is a fit case for grant of anticipatory bail. The

petitions, as such, are accepted. In the event of arrest, the petitioners shall be released on bail subject to their furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioners shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

9. This petitions stand accepted accordingly.

17.1.2019

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No