205

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-22115 of 2019
Date of decision: December 20, 2019

Ramwati Awasthi

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Zubair Ahmed, Advocate and
Mr. Sohan Lal, Advocate for the petitioner.

Mr. Arun Beniwal, DAG Haryana.

Mr. Rachit Kaushal, Advocate for the complainant.

*****

MAHABIR SINGH SINDHU, J

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of bail pending trial to the petitioner, in FIR No.396 dated 09.10.2016, under Sections 420, 409, 506, 120-B of the Indian Penal Code, 1860, registered at Police Station Rai, District Sonepat.

Above FIR was registered on the basis of complaint made by Abhineet Sharma being authorised representative of the company, namely M/s P.S. Health Care, HSIIDC, Rai, with the allegations that their company used to purchase poultry feed as well as supplements from Biomass Research and Technical Solution Pvt. Limited, Kanpur (for short 'BR&TS Pvt. Ltd.') and regular payments were made in lieu thereof by way of cheques to one Sumit Awasthi (son of the petitioner). He used to give the receipts/bills for the payments received on behalf of the

BR&TS Pvt. Ltd. In January 2015, BR&TS Pvt. Ltd. did not supply the goods to complainant's firm, therefore, upon inquiry, it was revealed that no payment have been received on account of the earlier purchase by the complainant and due to that, further supply was discontinued. It was found that although complainant had made the payments by way of cheques to said Sumit Awasthi, but he misappropriated the same as the cheques were credited in favour of their own firm namely, M/s Biomass Research and Technical Solutions (for short 'BR&TS'). Thus, both mother (petitioner) and son in connivance with each other have misappropriated crores of rupees of BR&TS Pvt. Ltd. while opening their bogus firm namely, 'BR&TS' under a deception. Both the accused have started their firm resembling to BR&TS Pvt. Ltd. while withholding the suffix 'Private Limited' to their firm. It is further alleged by the complainant that Sumit Awasthi and his mother in order to deceive the innocent persons received cheques for the goods supplied to them by BR&TS Pvt. Ltd., but Sumit Awasthi got deposited the cheques in the account of their fake firm instead of crediting the same in the account of original company. In this way, both of them have misappropriated an amount of ₹1,56,300/- of complainant's firm. Owner of the complainant's firm also received a phone call from Sumit Awasthi with the threat to kill him in case, he helped BR&TS Pvt. Ltd. in any manner or tried to give any information in this regard. Further alleged that many persons have also got registered other criminal cases against said Sumit Awasthi as well as his mother.

Contends that petitioner has been falsely implicated in this case as she has not committed any offence directly or indirectly. Further contends that BR&TS Pvt. Ltd. is jealous with her son on account of business rivalry for manufacturing and marketing poultry feed (*Murgi Dana*) supplement, therefore, they got the present false case registered as a pressure tactics. Also contends that petitioner is 68 years old lady suffering from various ailments.

On the other hand, learned State counsel, upon instructions from ASI Prem Parkash, as well as learned counsel for the complainant have opposed the prayer of the petitioner, while submitting that she along with her son conspired with each other and cheated the complainant's firm. Also submitted that petitioner as well as her son, namely Sumit Awasthi who was working as a salesman with BR&TS Pvt. Ltd., fraudulently received cheques from the complainant's firm and got deposited the same in favour of their own firm, i.e. BR&TS and thus, misappropriated the amount. Further submitted that petitioner along with her son are facing 23 criminal cases of similar nature and in case, she is granted the concession of bail, might destroy the evidence and even hamper the trial.

Heard both sides and perused the paper-book.

Undisputedly, petitioner along with her son are facing 23 more criminal cases of similar nature besides the present one and the details of which are as under:-

1) FIR No.534/14, under Sections 420, 467, 468, 471, 408 of IPC, registered at Police Station Kotwali, District Kanpur Nagar;
2) FIR No.457/15, under Sections 384, 420, 467, 468, 457, 504,

506, 406 of IPC, registered at Police Station Barra, District Kanpur Nagar;

3) FIR No.796/15, under Sections 406, 420, 467, 468, 471, 484, 504, 506 of IPC, registered at Police Station Kalyanpur, District Kanpur Nagar;

4) FIR No.1095/15, under Sections 419, 420, 467, 468, 471, 120-B, 34 of IPC, registered at Police Station Kalyanpur, District Kanpur Nagar;

5) FIR No.266/15, under Sections 408, 420, 467, 468, 471 of IPC, registered at Police Station Gangaghat, District Unnao;

6) FIR No.01/16, under Sections 2/3 U.P. Gangster Act of IPC, registered at Police Station Gangaghat, District Unnao;

7) FIR No.36/16, under Sections 408, 420, 467, 468, 471 of IPC, registered at Police Station Gangaghat, District Unnao;

8) FIR No.37/16, under Sections 408, 420, 467, 468, 471 of IPC, registered at Police Station Gangaghat, District Unnao;

9) FIR No.75/16, under Sections 420, 467, 468, 471, 120-B of IPC, registered at Police Station Gangaghat, District Unnao;

10) FIR No.74/16, under Sections 420, 467, 468, 471, 120-B of IPC, registered at Police Station Gangaghat, District Unnao;

11) FIR No.80/16, under Sections 420, 467, 468, 471, 120-B, 408, 411 of IPC, registered at Police Station Kalyanpur, District Kanpur Nagar;

12) FIR No.107/16, under Sections 420, 467, 468, 471, 120-B, 408 of IPC, registered at Police Station Barra, District Kanpur Nagar;

13) FIR No.106/16, under Sections 420, 467, 468, 471, 120-B, 408 of IPC, registered at Police Station Barra, District Kanpur Nagar;

14) FIR No.387/15, under Sections 147, 504, 506, 420, 467, 468, 471, 120-B of IPC, registered at Police Station Bithoor, District Kanpur Nagar;

15) FIR No.396/16, under Sections 420, 409, 506, 120-B of IPC, registered at Police Station Rai, District Sonipat;

16) FIR No.117/16, under Sections 420, 406, 506, 467, 468, 471 of IPC, registered at Police Station Pheelkhana, District Kanpur Nagar;

17) FIR No.332/16, under Sections 420, 467, 468, 471, 120-B of IPC, registered at Police Station Kotwali, District Kanpur Nagar;

18) FIR No.544/15, under Section 174-A of IPC, registered at Police Station Kotwali, District Kanpur Nagar;

19) FIR No.402/18, under Sections 408, 420 of IPC, registered at Police Station Yashwant Pura, District Banglore;

20) FIR No.44/19, under Sections 408, 420, 467, 468, 471 of IPC, registered at Police Station Gangaghat, District Unnao;

21) FIR No.65/19, under Sections 408, 420, 467, 468, 471 of IPC, registered at Police Station Gangaghat, District Unnao;

22) FIR No.1582/18, under Sections 387, 504 of IPC, registered at Police Station Kotwali, District Unnao;

23) FIR No.44/19, under Sections 34, 420, 468 of IPC, District Devangere, Karnataka.

Paper-book reveals that petitioner is an active partner with her son in the firm, namely BR&TS which is factually a bogus firm to deceive the original company, i.e. BR&TS Pvt. Ltd. The appointment letter of Sumit Awasthi issued by BR&TS Pvt. Ltd., indicates that he was appointed as an accountant/sales executive with the company, but he breached the trust reposed in him. Material collected during investigation indicate that a partnership deed has been executed between the petitioner as well as her son, wherein she is shown as a partner of BR&TS, which is the ultimate beneficiary of the payments received on behalf of BR&TS Pvt. Ltd.

Thus, petitioner along with her son cheated the complainant's firm by misappropriating cheques amount meant for

BR&TS Pvt. Ltd. on account of clearing their dues. Antecedents of the petitioner reveal that she is found involved in number of other criminal cases alongwith her son and committed repeated offence by cheating the complainant's firm as well as public at large. Also to be noticed that there is even an apprehension expressed by the State counsel that in case petitioner is released on bail, she is likely to destroy the evidence and hamper the trial. Since petitioner along with her son actively conspired with each other and facing 23 other criminal cases; therefore, this Court does not deem it appropriate to grant her concession of bail pending trial.

Keeping in view the facts and circumstances of the present case, no ground for grant of bail pending trial to the petitioner, is made out, at this stage.

Hence, petition stands dismissed.

Needless to say that observations made above may not be construed as an expression of opinion on merits of the case.

(MAHABIR SINGH SINDHU)
JUDGE

December 20, 2019
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No