IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-34171-2019 (O&M)
Date of decision : 05.11.2019

Naresh Sharma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Goyal, Advocate for the petitioner.

Mr. Hittan Nehra, Additional Advocate General, Punjab.

Mr. Vaibhav Sehgal, Advocate for the first informant.

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ANIL KSHETARPAL, J. (ORAL)

Petitioner prays for grant of bail pending trial in FIR No.322 dated 24.10.2018 registered under Section 420 of the Indian Penal Code and later on added Section 120-B of the Indian Penal Code, at Police Station Jodhewal, District Ludhiana.

Facts of the case as noticed by the learned Court of Sessions, are extracted as under:-

> *"3. Briefly stated as per FIR the allegations are that the complainant Abhay Ahuja being partner of M/s Ganga Fabrics, village Gailowal, District Ludhiana has moved an application before Commissioner of Police, Ludhiana against the applicant-accused and others alleging therein that the applicant is partner of M/s Ganga Fabrics. The*

accused Naresh Sharma for the last sometime was working as Marketing Manager at Venus Dyeing, Jalandhar Bypass, Ludhiana and was also working as an agent in the market. In the month of September 2016 the accused Naresh Sharma came to the office of complainant at Madhavpuri Chowk and in a well planned conspiracy allured the complainant that Naresh Sharma has contacts with many firms who purchased thread in huge quantity. The complainant was allured to do business with those firms through accused Naresh Sharma who shall be responsible for making payment of the amount. The complainant was allured with huge profits. The complainant agreed to the proposal and also talked to firms mentioned at Sr. No.2 to 4 in the application. It was settled that entire dealings shall take place through accused Naresh Sharma. Thereafter, the complainant started supplying material to the firms at Ludhiana through accused Naresh Sharma which firms included M/s Balaji Trade, New Ganpati Creation, Parveen Fabrics Private Limited, Sunrises Clothing, Rocky Fabrics etc. The thread was sold to these firms and some threads were given for being fabricated to clothe. The accused Naresh Sharma also made payments to the complainant on behalf of some firms and became a trusted person of the complainant. The dealings with other firms were also there. In the month of November 2016 the complainant demanded the amount from the firms and post dated cheques were issued by Vidya owner of Kartik Swami Knit Fab and Neerja owner of Anshul Knitwear and assured that these cheques shall be encashed on the due date. When the complainant demanded the payment from Naresh Sharma, he agreed to get all the payments made by January 2017. However, the payments were not made and the fabricated clothes were also not delivered. A false application was also moved against the complainant and his

> *family members to involve them in a false case of kidnapping in order to blackmail the complainant and his family members. The complainant inquired into the matter and came to know that accused Naresh Sharma has created false firms and when the complainant met Rajinder Duggal owner of M/s Balaji Trade, the complainant came to know that entire payment has been collected by accused Naresh Sharma and the entire receiving and the bills are also in possession of Naresh Sharma. The cheque issued by Neerja for an amount of ₹3,50,000 also bounced. The accused Naresh Sharma received the payments from the firms, but did not make any payment to the complainant. The complainant was threatened to be killed. On the application an inquiry was conducted and the present case has been registered against the applicant-accused and others. On completion of investigation report under Section 173 Cr.P.C has already been presented against the applicant-accused, whereas two other persons namely Girish Chopra and Sahil Duggal son of Rajinder Duggal have been kept in column No.2 of the report."*

This Court has heard learned counsel for the parties at length.

On the one hand, learned counsel for the petitioner submits that petitioner was working only as a commission agent and it was not his responsibility to collect the amount from the vendees.

On the other hand, learned counsel for the first informant submits that petitioner has floated three fictitious partnership firms in the name of his family members and his two employees. It has further been pointed out that more than ₹1,00,00,000/- is due from the petitioner.

In para 5 of the FIR, there is a reference to affidavit dated 02.02.2017, wherein the petitioner had undertaken to transfer his house at

Amritsar in the name of first informant and pay remaining amount within 3 months. However, neither house has been transferred nor payment has been made.

Keeping in view the aforesaid facts, this Court is not inclined to grant concession of bail to the petitioner.

Accordingly, the present petition is dismissed.

Needless to observe that any observations made by this Court while deciding bail application shall not influence the trial Court.

05.11.2019 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

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

Whether reportable:- **Yes/No**