

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

CRM-M-50076-2019(O&M)

Date of decision:-28.2.2020

Sandeep

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Rohan Sharma, Advocate
for the petitioner.

Rana Harjasdeep Singh, DAG, Punjab.

Mr.A.S. Manaise, Advocate
for the complainant.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Sandeep, an accused in FIR No.153 dated 22.8.2019 for the offences under Sections 406 and 420 IPC, registered with Police Station Kotwali, Bathinda.

Briefly stated, the facts of the case as per the prosecution story are that Sarwan Kumar from GSP Crop Science Pvt. Ltd. had submitted a written complaint to Senior Superintendent of Police, Bathinda against the present petitioner and several others contending therein that GSP Crop Science Pvt. Ltd. having its registered office at Ahemdabad (Gujarat) has been manufacturing and selling pesticides throughout the country through its distributors; New Prayag Agro Traders,

Kuber Beej Bhandar and Ganesh Trading Company were appointed as distributors of that company; that GSP Crop Science Company from the month of March, 2018 to August, 2018 had launched a scheme for distributors vide which it was announced that the goods purchased by the distributors within these three months, they would be bound to make the payment within one year out of which half of the payment would have to be made within first six months and the remaining half payment would have to be made within next six months; the three firms aforementioned had purchased pesticides worth Rs.1,14,96,046.91 giving an assurance to the company to make the payment of the abovesaid amount within the stipulated period at the time of delivery of the pesticides; after taking the delivery of the pesticides, the intention of the accused had changed and they dishonestly sold pesticides to others without making payment to the company within six months as per their commitment and delayed the payment on one pretext or the other; when the sales officer told about the matter to the senior officers of the company, they held a meeting with the distributors in the month of March, 2019 at Bathinda, wherein the distributors were informed that in case they could not make the payment, then they could return the pesticides to the company, at which the distributors told that they had sold the goods and apologized for their act; the three distributors had issued post dated cheques from their current accounts, however, the cheques on being presented were dishonoured on account of drawer stopping the payment; the complainant came to know that Radhey Sham and Sandeep had closed their accounts prior to issuance of cheque, whereas accused Dharamvir had informed the bank in writing

to stop the payment of cheque prior to the issuance of the cheque; the distributors have not made any payment to the company, in that way they have committed a fraud with the company.

On registration of formal FIR, apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Additional Sessions Judge, Bathinda vide order dated 15.11.2019. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition was given to respondent – State, which put in appearance through counsel. The complainant has also appeared through counsel.

I have heard learned counsel for the parties besides going through the records.

In this case, under a compromise, the petitioner had issued a cheque in the sum of Rs.33,92,850.13/- drawn on State Bank of India in favour of the complainant. However, on presentation the cheque was dishonoured. The matter had been referred to by this Court to Mediation Centre but without any fruitful result.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had

observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Keeping in view the serious allegations of cheating and fraud against the petitioner, his custodial interrogation of the petitioner is definitely required for complete and effective investigation. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for.

Thus finding no merit in the petition, the same stands dismissed.

28.2.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No