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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4848-2021 (O&M)
Date of Decision: 05.02.2021

Akash

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. V.P. Sangwan, Advocate for the petitioner.

Kanwar Sanjiv Kumar, AAG, Haryana.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail, pending trial in case FIR No.0059 dated 18.02.2020 registered under Sections 406, 420, 467, 468 and 471 IPC, 1860 at Police Station City Charkhi Dadri, District Charkhi Dadri. The petitioner is in custody since his arrest on 03.11.2020.

The FIR was registered on the basis of complaint given by Chanda Singh Nirman and the allegations as noticed by Id. Addl. Sessions Judge, Charkhi-Dadri in the order dated 18.01.2021 are as under:

“The story of prosecution is that the present case was registered by the Chanda Singh Nirman, Director of M/s Kshitika Solar Energy Pvt. Limited, against the petitioner-accused on the allegations that the Company of the complainant was engaged to set up solar power plant and have also got tenders of HAREDA for supply of solar system in Haryana. They have also opened an office at Charkhi-Dadri under the name and style of M/s Kshitika Solar Energy Pvt. near New Grain Market, Mahendergarh Road, Charkhi Dadri. Satish Kumar son of Mairam and his son Akash (petitioner-accused) were doing the work of installation of Solar System along with one Aman son of Hariom, came to their office in Delhi in September 2019 and requested to

do the work in Dadri District. Since said Satish Kumar was familiar in Dadri area, therefore, the complainant gave permission to do the work on same terms and conditions that the HAREDA will take the list of consumers and will work with the consumers to set up solar system. Rs.22,000/- for 500 Wt Solar System and Rs.15,000/- for 300 Wt Solar System were settled to be charged and the full amount was to be deposited directly in the company's account on the same day or the next working day. Said Satish Kumar and Akash were made the In-charge of Local Office, Charkhi Dadri as vendors of Dadri District. All the equipments of Solar System like Module, Charger, Controller, Structure and Wire Cables etc. were to be made available by the Company at the office of Charkh-Dadri on the demand of Vendors. Thereafter, the company provided the Deposit Receipt Book bearing Serial Nos.1401 to 1500 and 1501 to 1600 to the petitioner-accused Akash and Satish only. Thereafter, the inseption was done by the Director on 11.11.2019 and the work was found satisfactory. However, due to rush of work, the accoutns were not again inspected/audited by the said Director. On 26.12.2019, from Charkhi Dadri office, a receipt No.1805 and 1822 sent through the whatsapp on the mobile of the Director and then the Director came to know that the Company had only given the receipt book from Serial Nos.1401 to 1600 then how they got issued the reciept No.1805 to 1822. Thereafter, during thorough enquiry/inspection by the Director, it was found that the petitioner-accused alongwith his co-accused have misappropriated the money taken from a lot of consumers by not depositing the same in the Company's account. It was also found that a total sum of Rs.52,30,000/- were received from about 253 consumers for setting up solar system but they deposited only Rs.33,20,000/- in the company's account. Thus they embezzled a sum of Rs.19,10,000/-. With the above siad allegations, said FIR was lodged. “

Learned counsel for the petitioner contends that as per the allegations in the FIR, the petitioner alongwith his father had misappropriated the amount received from the consumers and had caused loss of approximately Rs.19,10,000/- to the Company. He submits that the complainant-company had engaged the services of the petitioner for installation of the solar system in the houses of the consumers and in all, approximately 253 such connections were installed. He submits that as per

FIR itself, out of Rs.52,30,000/-, a sum of Rs.33,20,000/- stood deposited in the account of the Company after December 2019. According to him, the complaintant has not disclosed about the payment of agreed commission to the petitioner and dispute is of civil nature. He has pointed out that the investigation in the case is complete and the final report stands filed. He prays for bail.

On the other hand, the prayer is opposed by learned State counsel assisted by SI Surender. He submits that a sum of Rs.75000/- has been recovered from the petitioner and the final report was filed on 17.12.2020, however after framing of charges, the prosecution witnesses are yet to be examined.

After hearing the learned counsel for the parties, this Court finds that the investigation of the case is complete and the offences are triable by Magistrate and the trial may consume considerable time to conclude. Admittedly, the petitioner is presently confined in judicial custody since 03.11.2020, therefore, his further detention may not be necessary for any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.

05.02.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No