IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

**Criminal Misc. No.M-10767-2021(O&M)**
**Date of Decision: June 03, 2021**

Sachin ...Petitioner

Versus

State of Haryana ...Respondent

**CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**
--

Present: - Mr.Amandeep Singh Jattana, Advocate
for the petitioner.

Mr.Rajneesh Chadwal, AAG, Haryana.

Mr.Akshay Bhan, Sr.Advocate with
Mr.A.S.Talwar, Advocate and
Mr.Omar Ahmad, Advocate for the complainant.

-

**HARINDER SINGH SIDHU, J.**

The petitioner has filed this petition under Section 439 Cr.P.C. for grant of bail in case FIR No.267 dated 28.09.2020, under Sections 406, 408, 420, 467, 468, 471, 506 and 120-B IPC, Police Station DLF Phase-III, District Gurugram, Haryana.

The FIR has been registered on the complaint of Rajat Luthra, Designated Market Procurement Leader, Phillips India Ltd. (for short "Philips"). In his complaint he alleged that certain vendors as well as former and serving employees of Phillips in a criminal conspiracy with each other prepared fake invoices for services not even requisitioned by Phillips and raised bills in furtherance of the same. The said bills were then cleared in collusion with serving officials of Phillips and payments were made to vendors on behalf of Phillips for services not rendered, thereby causing wrongful loss to Phillips India and wrongful gain to the accused. The alleged amount so misappropriated/embezzled had been estimated to be Rs.8 crores for the period 2019-20 and even prior thereto.

The two former employees named were Anuj Gureja and Gaurav Sehgal. Four then serving employees named were Vivek Kumar Jaiswal (Market Procurement Manager), Sachin Saxena (Third-Party Procurement Executive)- (petitioner), Kamal Jain (Finance Business Partner -Corporate Financial Planning and Analysis) and Neeraj Bhatia (Senior Manager, Supply Chain Management). Later their services were terminated.

The modus operandi alleged was that the above named serving employees prepared false Purchase Orders in favour of the five named vendors for procurement of services that were not required. Qua these false Purchase Orders no indent or requisition was sent by the relevant department of Philips.

The vendors then utilized the numbers of these false Purchase Orders, generated fraudulent invoices and sent the same to Phillips demanding payment. It was stated that the Department Head of Phillips K Gopi had also confirmed that no services had been received qua those Purchase Orders and the fraudulent invoices.

It was alleged that after evaluation of the material it had come to light that Anuj Gureja and Gaurav Sehgal, former employees of Phillips were the masterminds behind the illegal operation. They had worked in the Philips `Vendor Management Team' till January 2018 and August 2019 respectively. They understood the loopholes in the procurement process and misused the same for cheating Phillips by processing Purchase Orders, invoices and payments through electronic method. It was stated that this became known when the serving employees namely Vivek Kumar Jaiswal, Sachin Saxena, Kamal Jain, Neeraj Bhatia and Bhanu Grover were questioned and their Whatsapp messages and e-mails were examined. They admitted that after getting enticed by the conspiracy woven by Anuj Gureja and Gaurav Sehgal, Sachin Saxena (petitioner) alongwith other serving employees prepared fake Purchase Orders. Vivek Kumar Jaiswal accepted/consented to some of the Purchase Orders and helped in the payment of the fraudulent invoices of vendors.

It was alleged that for generating some false Purchase Orders Neeraj Bhatia gave his VPN access credentials to Anuj Gureja and Gaurav Sehgal enabling them to access the systems of Phillips and prepare false Purchase Orders. Kamal Jain as Financial Planner could have found out about the cheating but he concealed the fraud from Phillips. For that he took an amount of Rs.10 lakh from one vendor. Kamal Jain had admitted that Anuj Gureja was his friend. It was further alleged that in an internal inquiry Vivek Kumar Jaiswal and Sachin Saxena had admitted to being bribed and threatened by Anuj Gureja and Gaurav Sehgal. In December 2019, Anuj Gureja and Gaurav Sehgal gave Rs.3.80 lacs in cash to Vivek Kumar Jaiswal in lieu of payments of certain amounts to the accused vendors. A number of other cash transactions took place between these accused. Till July, 2020 Anuj Gureja and Gaurav Sehgal had paid a total of Rs.31.50 lacs in cash to Vivek Kumar Jaiswal. Sachin Saxena admitted that Anuj Gureja and Gaurav Sehgal paid him Rs.9 lacs in cash for preparing fake Purchase

Orders and causing wrongful gain to vendors for payments made qua their invoices. Sachin Saxena also shared on Whatsapp some details of his illegal dealing with Bhanu Grover an employee of Phillips. But Bhanu Grover did not inform Phillips about the same. It was alleged that the Whatsapp messages of the serving employees clearly revealed about the involvement of the accused in the criminal activities. The Whatsapp messages were annexed with the complaint.

It was alleged that having admitted his illegal activities, on July 24, 2020 Vivek Kumar Jaiswal returned Rs.31.50 Lacs in cash to Phillips. Similarly, Sachin Saxena having admitted his role in the illegal activities returned Rs.4.70 Lacs in cash to Phillips. He promised to return the remaining Rs.4.30 Lacs out of the 9 lakhs received by him from Gaurav Sehgal and Anuj Gureja. It was further alleged that Kamal Jain had also admitted that he connived in a special manner with Anuj Gureja and obtained approx. Rs.10 Lacs from one vendor namely PRV Computer System (India) Private Limited. The statements of Vivek Kumar Jaiswal, Sachin Saxena and Kamal Jain were enclosed with the complaint. It was further alleged that Vivek Kumar Jaiswal, Sachin Saxena and Kamal Jain informed Phillips that Anuj Gureja was aware of the fact that Phillips was conducting an enquiry qua the payments made to the vendors and had also sought clarification from certain employees. Anuj Gureja threatened Vivek Kumar Jaiswal of dire consequences if he disclosed about the role of Anuj Gureja. On August 06, 2020 Rohan Mehtani, the owner of Marrsis Disha orally confessed that in reality no services were provided qua the various invoices issued. In August 2020, Phillips sent e- mails to accused vendors for audit of their invoices and payments, but they did not cooperate. It was alleged that the vendors had failed to provide any proof qua the fraudulent invoices upon which services had been dishonestly billed by them.

Based on the complaint submitted on behalf of Philips, initially, FIR was registered under Section 408, 420, 506, 120-B, IPC. The investigation of the case is being conducted by SIT constituted by the Commissioner of Police, Gurugram. On the basis of investigation Sections 467, 468 and 471 were added.

During the course of investigation accused Vivek Jaiswal and Sachin Saxena (petitioner) were arrested on 13.10.20220. Accused Rohan Mehtani (of Marssis Disha- one of the five accused vendors ) was arrested on 26.10.2020. Accused Vivek Jaiswal got recovered Rs.31.50,000/- and one mobile phone. Accused Sachin Saxena got recovered Rs.9 Lakhs, one laptop and one mobile phone.

Mr. A.D.S.Jattana Ld. Counsel for the petitioner has argued that qua the arrested employees Vivek Jaiswal and Sachin Saxena (petitioner) challan has been submitted in Court. The petitioner is in custody since 13.10.2020. The evidence in the case is documentary in nature and no tampering is possible. The trial of the case may take a long time. Hence the petitioner be released on bail.

The contention on behalf of the State/ complainant is that the petitioner is one of the main accused in the case who forged and fabricated the Purchase Orders. The petitioner has himself admitted to his crime. He admitted having received Rs.9 lakhs. He has returned Rs.4.7 lakhs to the complainant. During police custody he got recovered Rs.4.3 lakhs out of the proceeds of the crime. It is stated that Purchase Orders to the extent of Rs.1.89 Crores were forged using the SAP ID of the petitioner. The role of the petitioner is also clear from the whatsapp chats. Though the challan qua the petitioner has been filed but the investigation qua the other accused is yet going on. The release of the accused would hamper the further investigation.

Sh. Akshay Bhan Sr. Advocate appearing for the complainant stressed that the anticipatory bail applications of eight of the co-accused in this FIR had been dismissed by the High Court on 16th March, 2021. SLPs filed there-against by some of them have only recently been dismissed. He referred to an order dated 05.04.2021 in SLP (Crl.) No.2711/2021 'Kushal Jain Vs. State of Haryana' and SLP (Crl.) No.2752/2021, whereby, while dismissing the SLPs the petitioners therein- Kushal Jain and Dinesh Mahajan were directed to present themselves before the Investigating Officer on 12.04.2021 at 10.00 a.m. He argued that further investigation is to be carried out and the custody of the petitioner may also be necessary for that purpose.

Having considered the submissions of the parties, I am of the view that the petitioner deserves to be released on bail. No doubt the allegations against the petitioner are serious in as much as it is alleged that while working in the complainant- company he forged Purchase Orders to the extent of Rs. 1.89 Crores using his SAP ID for which he received a sum of Rs.9 lakhs from the other co-accused. As unearthed during the investigation so far, the complainant company is alleged to have been defrauded to the extent of Rs.22 crores by the action of the petitioner and the other co-accused.

But it cannot be lost sight of that the petitioner is in custody since 13.10.2020 i.e., more than seven months. By now the prosecution has also had sufficient time for further investigation after the dismissal of the SLPs of some of the co-accused. There appears to be no danger of the petitioner absconding or fleeing, if released on bail or of the witnesses being influenced in any manner or the course of justice being thwarted by his release on bail. No such apprehension has also been voiced by the State/ complainant.

In view of the above, without expressing any opinion on the merits of the case, this petition is allowed. The petitioner Sachin s/o Man Mohan Singh is directed to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

**June 03, 2021** **(HARINDER SINGH SIDHU)**
gian **JUDGE**

| | |
|---|---|
| Whether Speaking / Reasoned | Yes |
| Whether Reportable | Yes / No |