

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

CRM-M-29048-2018
Date of decision: 11.01.2021

Surinder Ahuja

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Anuj Dewan, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. P. S. Ahluwalia, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in the present petition is for grant of anticipatory bail to the petitioners in case FIR No. 43 dated 28.07.2017, registered under Sections 420 and 506 of the IPC at Police Station Sadar Rajpura, District Patiala.

This petition is pending since 2018 and on 18.07.2018, it was observed that learned State counsel, on instructions from the Investigating Officer, has submitted that there was no compromise between the petitioner and complainant and this fact was also noticed in the order dated 22.05.2018 passed by the Additional Sessions Judge, while dismissing the anticipatory bail application of the petitioner.

Thereafter, this case was tagged with anticipatory bail application of co-accused Anchal Narang and Manminder Singh vide CRM-M Nos. 45156 & 47047 of 2017, respectively, wherein interim

protection was granted on a representation given by the petitioners (in the said cases) that they intended to settle the dispute with the complainant and the cases were referred to Mediation and Conciliation Centre of this Court, however, the present petitioner was not granted any interim protection and this case remained pending for a considerable long time.

A perusal of some of the orders jointly passed in all the petitions shows that a settlement was arrived on 22.12.2017 between accused Anchal Narang and Manminder Singh with nine complainants, however, with regard to some of the complainants, it was observed that no settlement could be arrived at. The aforesaid two petitions, bearing CRM-M Nos. 45156 & 47047 of 2017, filed by co-accused Anchal Narang and Manminder Singh, were also listed today along with present petition, however, they have been detached as the parties have agreed to explore further possibility of some amicable settlement and they have been directed to appear before the Mediation and Conciliation Centre of this Court on 15.01.2021 to avoid any further delay.

However, learned counsel for the petitioner has opted to argue the case on merits and submit that in the aforesaid two petitions, the claim of complainant-M/s Satnam Packaging of Rs. 4,12,17,541/- was not authenticated by the aforesaid two co-accused on 28.10.2018.

Learned counsel further submitted that petitioner was inducted as a Director on 07.12.2013 and he resigned as such on 08.03.2018 and, thereafter, four other persons, namely Harpal Singh, Gursharan Kaur, Parvesh Chander Sabharwal and Kuwarinder Singh, are the present Directors of Nuway Organic Naturals India Ltd. and they are liable for the civil liabilities, if any.

Learned counsel for the petitioner further argued that even complainant-M/s Satnam Packaging has filed a petition before the National Company Law Tribunal, Chandigarh (for short 'NCLT') under Section 9 of the Insolvency and Bankruptcy Code, 2016, wherein some proceedings are pending and, therefore, the petitioner cannot be held liable for any offence under Sections 420 and 506 of the IPC.

Learned counsel for the petitioner further argued that in fact it is a civil liability and the FIR has been registered just to put unnecessary pressure on the petitioner along with other accused.

It is also argued that as per allegations in the FIR, the primary allegations are against co-accused Manminder Singh and Anchal Narang, whereas petitioner Surinder Ahuja and co-accused Ginny Singh were only the Directors of Nuway Organic Naturals India Ltd.

Learned counsel further submitted that now the police, during investigation has found co-accused Ginny Singh to be innocent and, therefore, on the basis of the statement made by Investigating Officer/ASI Gurjit Singh, she has withdrawn her anticipatory bail application, vide order of the even date passed by this Court in CRM-M-32197-2020.

Learned counsel for the petitioner has referred to certain documents which are part of aforesaid petition to submit that at present, the petitioner is not a Director; proceedings are pending before NCLT; some settlement is arrived at between some of the victims and co-accused Manminder Singh and Anchal Narang.

In reply, learned State counsel has submitted that as per the allegations in the FIR, the petitioner, being one of the Directors, has committed an offence of cheating with complainant-Raminder Singh @

Shainti-Director of M/s Satnam Packaging as it is admitted case that the petitioner, being Director of Nuway Organic Naturals India Ltd., along with others, owe Rs. 4,12,17,541/- (Rupees four crore twelve Lakh seventeen Thousand five Hundred and forty one) and when the complainant had demanded the same and had gone to the premises of factory, he was threatened by the accused persons. It is further stated in the FIR that the complainant escaped from the clutches of the anti social elements who were present in factory premises armed with weapons, with accused persons and thereafter, he has got the present FIR registered.

Learned State counsel also submitted that similar FIRs are also pending against the petitioner in other States including Madhya Pradesh.

Learned counsel for the complainant has additionally argued that the petitioner was active Director during the period when the firm of the complainant had supplied goods and the petitioner and other Directors, with clear intention of cheating, accepted the goods as they never intended to make the payment to him, therefore, offence under Section 420 IPC is made out and since the accused have also extended threat to kill the complainant, the offence under Section 506 IPC is also made out.

Learned counsel for the complainant further submitted that the petitioner has allegedly retired after the registration of the FIR and cannot escape from the liability under the criminal law.

It is also stated by learned counsel for the complainant that the other accused have settled the dispute with nine persons against whom the amount was less than Rs. 10 Lakh, however, since the liability towards the complainant is more than Rs. 4 Crore, accused has adopted a novel method of saying that there is a possibility of settlement between the parties.

After hearing learned counsel for the parties and considering the fact that the petitioner, before the Additional Sessions Judge as well as before this Court, has been representing that he is ready to settle the dispute with complainant but later on, it is stated that he has not acknowledged the liability towards complainant-M/s Satnam Packaging, it is apparent that *prima facie* offence punishable under Section 420 IPC is made out as since inception, while dealing with complainant, the intention of the petitioner and other accused was to cheat him and in that process, he has gained more than three years' time and has evaded his arrest without their being any interim protection.

Accordingly, finding no merit in the present petition, the same is dismissed.

Any observations made herein shall have no bearing on the merits of the case as the same are only for the purpose of deciding the present anticipatory bail petition.

11.01.2021

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No