

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.36976 of 2021
Date of Decision: November 08, 2021

Mayank Pandey & another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Baljeet Beniwal, Advocate,
for the petitioners.

Mr.Sukhdep Parmar, DAG, Haryana.

MANOJ BAJAJ, J. (Oral)

Petitioners have filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.231 dated 14.07.2021, under Sections 406, 418 IPC, 1860 and Sections 420, 379, 411, 506, 120 IPC added later on and Section 418 IPC deleted subsequently), registered at Police Station, Gadpuri Palwal, District Palwal, who are in custody since their arrest on 17.07.2021.

The contents of the FIR, as noticed by the Sessions Judge, Palwal, in his order dated 13.08.2021, while dismissing the regular bail application of petitioners, are as under:-

“Facts of the case, registered upon the application of Vishal Garg son of Shri Mukesh Garg, resident of House No.505, Sector-17, Faridabad, are that he is Director of Prompet Enterprises Private Limited, Gadpuri. On 5.7.2021, Rajan Pandey made call to him from phone nos.6394578804 and

6306458845 claiming himself to be owner of H.F. Infrastructure, Kundan Road, UPSIDC Industrial Area Kanpur Unnao Highway, Shuklaganj (UP) and placed orders of supply of C.R.Coils of the size 0.80 x 1250 mm and it was told that he would make payment through R.T.G.S. before delivery of the articles. On 7.7.2021, at about 4.30 p.m., they loaded 41.42 tonnes of C.R. Coils in truck no.HR-38Z-4604 for delivery to H.F. Infrastructure, Kundan Road, UPSIDC Industrial Area, Kanpur Unnao Highway, Shuklaganj (UP). The value of the goods transported was Rs.35,92,356/-. Particulars of bill, e-way bill and G.S.T. number were also given in the complaint and it was stated that the driver of the vehicle was Rajiv, who reached the premises of the company on 8.7.2021 at 9 O' clock. Rajan Pandey made a call to the driver informing him that the way to his company, is bad due to rains and asked him to unload the vehicle at some other place. Rajan Pandey got delivery of the goods in some other godown without informing the complainant. On contact, Rajan Pandey told him that he would make payment of the goods through R.T.G.S. on 12.7.2021. Now, Rajan Pandey is not picking up their phone and when they reached the address given by Rajan Pandey, no company was found there and in this manner, Rajan Pandey has committed cheating. Upon this application, case under sections 418 and 406 of IPC was registered.....”.

Learned counsel for the petitioners has argued that as per allegations, the complainant had supplied the material pursuant to the purchase order placed by Rajan Pandey (father of the petitioners) and for non-payment of the purchase price, the complainant has falsely implicated the petitioners and their father in the above FIR. He submits that majority of the material, i.e., 35 tonnes supplied by the complainant has already been recovered and as the investigation of the case is complete, their further custody may not be necessary. He prays for bail.

On the other hand, the prayer is opposed by the learned State counsel, assisted by HC Vijay Kumar, who has argued that from the very beginning, the petitioners were having dishonest intention as against the delivery of material, they did not make due payment of approximately Rs.35.00 lacs to the seller. However, it is not disputed that the investigation is complete.

After hearing the learned counsel for the parties, considering the above background and the fact that the offences are triable by Magistrate, this court finds that the trial is yet to commence, therefore, considering their period of custody, this court does not find any reason to decline the prayer, particularly when the prosecution witnesses are the complainant and the police officials and there is no possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioners be released on regular bail subject to their furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Palwal.

November 08, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No