

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

203

CRM-M-3127-2020 (O&M)

Date of Decision: 11.02.2022

Prima Pradeep Mhatre

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Rishu Garg, Advocate, for the petitioner.

Mr. Rahul Mohan, DAG, Haryana,
assisted by ASI Ramesh.

Mr. Akshay Dahiya, Advocate, for the complainant.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.55 dated 08.02.2019 at Police Station Ganaur, District Sonapat, under Sections 420/467/468/471/120-B IPC.
2. The FIR in question was lodged at the instance of Sunil Kumar, Proprietor, M/s Jai Bharat Extrusion, Tehsil Ganaur, District Sonapat, wherein it is alleged that the complainant required aluminum scrap for manufacturing aluminum strips etc. One Vinay Saini, who used to supply aluminum scrap, was known to the complainant and that said Vinay Saini introduced the complainant to the firm of the petitioner i.e. M/s Smart Login Solutions, Hyderabad, of which Bonumala Andal, Prima Pradeep Mhatre (petitioner) and Nampally Anand Kumar are the Directors. It is

further alleged that the said firm i.e. M/s Smart Login Solutions agreed to supply aluminum scrap worth Rs.15 lakhs to the complainant and accordingly, the complainant transferred an amount of Rs.15 lakhs in the account of the firm i.e. M/s Smart Login Solutions. Tax Invoice, transport receipt and weight receipt were sent to the complainant for loading aluminum scrap worth Rs.15,90,451/-. It is alleged that the complainant was assured that the scrap had been loaded in Truck No.HR38T-3194 and had already started from Mumbai on 01.05.2018 and that the same should reach Sonapat in about 4/5 days. The complainant alleges that after receiving the aforesaid documents, he generated E-way Bill and also insured the articles being transported, through TATA AIG Insurance Company, but the aluminum scrap never reached to the complainant. When the complainant again contacted the accused, they told him that the transported aluminum scrap would reach through Truck No.MH04GR-8213 and accordingly, fresh invoice dated 05.05.2018 was sent to the complainant. However, even the said truck did not reach Sonapat. The complainant has, thus, alleged that the accused had defrauded him of an amount of Rs.15 lakhs.

3. Learned counsel for the petitioner has submitted that there is no written agreement amongst the parties as regards the supply of aluminum scrap and that the petitioner has been falsely implicated merely on account of the fact that she happens to be one of the Directors of M/s Smart Login Solutions. It has been submitted that the petitioner, in any case, is not actively involved in the affairs of the firm and has been roped in being a lady. Learned counsel has further submitted that, in any case, even if all

the allegations as leveled in the FIR are taken to be correct, the same would only constitute a 'civil liability' inasmuch as it is a case of recovery of an amount of Rs.15 lakhs, which the complainant claims to have advanced to the accused and in fact, a civil suit for recovery of the said amount has already been instituted. Lastly, it has been submitted that though the material in question has been supplied, but the complainant is disputing its receipt.

4. Opposing the petition, learned State counsel assisted by learned counsel for the complainant has submitted that since specific and categorical allegations have been leveled against the petitioner and the petitioner is not denying the fact that she is one of the Director of the firm in question, therefore, her complicity is clearly evident. Learned State counsel has, however, informed that pursuant to interim directions issued by this Court, the petitioner has joined investigation, but has not got recovered any amount though the same had been transferred through bank transaction.
5. I have considered rival submissions addressed before this Court.
6. The matter in hand pertains to non-supply of articles in respect of which an order has been placed by the complainant by way of making a payment of Rs.15 lakhs. While the petitioner asserts that the article in question i.e. aluminum scrap had been sent by her firm, but the complainant disputes the same. It is not in dispute that a civil suit has already been filed on behalf of the complainant in respect of the amount in question.

7. Having regard to the aforesaid fact and also the fact that the petitioner, who is a lady, is also stated to have joined investigation though the amount in question has not been recovered, this Court is of the opinion that it is not a case warranting custodial interrogation. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 24.01.2020 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

11.02.2022

Vimal

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: **Yes/No**

Whether reportable: **Yes/No**