

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-37761-2021 (O&M)
Date of Decision:- 24.2.2022

Deepak Kumar

.... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. P.K.Saran, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by Inspector Jaibhagwan.

Mr. Aakash Singla, 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 against him vide FIR No. 148 dated 18.7.2021 at Police Station Sadar Tohana, District Fatehabad under Sections 34, 406, 420 and 506 of Indian Penal Code.
2. At the time of issuance of notice of motion the following order was passed on 13.9.2021:

“The petitioner seeks grant of anticipatory bail in respect of a case registered vide FIR No.148 dated 18.7.2021 at Police Station Sadar Tohana, District Fatehabad under Sections 34, 406, 420 and 506 of Indian Penal Code.

Notice of motion for 15.11.2021.

At this Stage, Mr. Ankush Singla, Advocate has put in appearance on behalf of the complainant and accepts notice on behalf of the complainant.

As per the case of the complainant, the complainant is running a rice milling unit and had been dealing with ‘M/s Krishna Enterprises’ through Deepak Kumar (petitioner). It is alleged that Deepak Kumar, Sunil Kumar @ Sonu Monga and Gurpreet Singh @ Preet had assured that they will procure rice for complainant. As per complainant, an amount of Rs.11 crores had been transferred through bank to the account of the accused and as against the said amount rice worth Rs.8.7 crores only had been supplied and the remaining amount of Rs.2.3 crores had been misappropriated. It has further been submitted that subsequently upon insistence of the complainant, the petitioner issued a cheque for an amount of Rs.2.3 crores but the same upon presentation was dishonoured.

Learned counsel for the petitioner has submitted that it is a case where there had been continuous business transactions amongst both the parties and that he does not deny receipt of the aforesaid amount as have been reflected in Annexure P-1 w.e.f. 7.12.2020 upto 19.2.2021. It has further been submitted that as against the aforesaid amount, the petitioner had delivered rice worth Rs.8,91,68,008/-, the details of which are also mentioned in Annexure P-1/2, wherein all the invoice numbers are also mentioned. Learned counsel for the petitioner submits that it was on account of the fact that the complainant towards the end demanded Rs.2.3 crores for her personal use, which the petitioner found difficult to return as he had already passed on the money to his suppliers and due to which the cheque issued by the petitioner could not be honoured. It has been submitted that the instant case

is a case of purely civil liability and that it cannot be said that the petitioner had any intention to cheat the complainant as out of the amount of about Rs.11 crores received by him, he had regularly been supplying the rice and infact had already supplied rice worth Rs.8,91,68,008/-. Learned counsel has submitted that the present case is a case of civil liability simpliciter and since the complainant has already moved a complaint for dishonour of cheque in question, no criminal liability under Sections 406 and 420 IPC can be fastened and that the allegations under Section 506 IPC have simply been cooked up.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

Since both the learned counsel are open for working out some amicable settlement, the parties are directed to appear before Mediation and Conciliation Center at Fatehabad on 29.9.2021.”

3. Learned State counsel, upon instructions from Inspector Jaibhagwan, has informed that pursuant to aforesaid directions, the petitioner has joined investigation and he is not required for custodial interrogation and in fact the police upon investigating the matter has prepared a cancellation report which shall be filed after approval of the Superintendent of Police concerned.
4. Having regard to the aforestated position wherein the petitioner has joined investigation and is not required for any custodial interrogation, the petition is accepted and interim directions issued by this Court vide order dated 13.9.2021 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.

24.2.2022

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No