

**208-A IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision : 20.05.2022

1. CRM-M-44775-2021

Byas Kumar Verma

....Petitioner

Vs.

State of Haryana

...Respondent

2. CRM-M-46907-2021

Mohan Lal Verma

....Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Prabhdeep Singh, Advocate for the petitioner.
Mr. Sukhdeep Parmar, DAG, Haryana.
Mr. Bijender Dhankhar, Advocate for the complainant.

MANOJ BAJAJ, J.

Petitioners have filed these separate petitions under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.53 dated 02.02.2019 under Sections 406, 420, 506, 467, 468, 471, 120-B and 34 Indian Penal Code, 1860 PC registered at Police Station Kundli, District Sonipat, who were arrested on 22.07.2021.

The allegations in the FIR as noticed by the learned Additional Sessions Judge, Sonipat in the order dated 13.10.2021 (in CRM-M-44775-2021) are as under:-

“The brief facts of the prosecution case are that one Atul Kaushik son of Bal Kishan had addressed a complaint to S.P. Sonipat against eight Directors of AM India Mart Company regarding cheating and defraud in the complainant with respect to Rs.2 crores and also with respect to threatening to kill the complainant. The names of the directors are given in the police reply. It is stated by the complainant that he was living in Parker residency, Kundli Tower No.1, Flat No.1111 and he had constructed his residence as well as his office. He was having one shop No.3536 in Ansal Plaza Mall. He had sold the same for a consideration of Rs.2.25 crore. Amit Gupta who is one of the Directors came to the complainant

with accused No.1 and 2 at his residence and he was taken in by their oily tongue and he had issued a cheque for consideration of Rs.31 lakhs in the name of State Bank of India, Rathdhana Road, Lehrara on 15.05.2017 at their instance. Later on he had given another cheque on 17.05.2017 for an amount of Rs.1,67,00,000/- in the name of ICICI Bank, Punjabi Bagh, Delhi to the accused. Later on, they obtained his signatures on written agreement and Mona Verma obtained another cheque from him of ICICI Bank, Delhi. All the accused had defrauded the complainant for an amount of Rs.2 crores on the pretext of retail store. When the complainant had some doubt, he started demanding back his money but the accused had stated that they had no money of the complainant with them if he had telephoned them, they would kill him. On the complaint, case was registered and investigation was carried out.”

Learned counsel for the petitioners has argued that the allegations in the FIR relate to the breach of an agreement dated 31.05.2017 (Annexure P-3) executed between the M/s A.M.India Mart Company, through its Managing Director Mohan Lal Verma and Atul Kaushik (complainant) and dispute if, any between the parties is purely of civil nature. According to learned senior counsel, petitioner-Byas Kumar Verma, who was director of the company had tendered his resignation on 05.04.2017 much before the agreement between the parties, and therefore, he has been falsely implicated. According to him, the agreement was signed by another Director, namely, Mohan Lal Verma, and as the investigation of the case is complete, therefore, their further custody may not be necessary. He prays for bail.

The prayer is opposed by Mr.Bijender Dhankhar, learned counsel appearing on behalf of the complainant, who has argued that the petitioners had caused wrongful loss to the complainant by taking money from him on the pretext of providing franchise of their company, but they failed to keep their promise. According to him, as per Clause-3 of the agreement dated 31.05.2017 (Annexure P-3), the monthly return on the

amount paid by the complainant @ 12% per annum was paid by the company up to August 2018, but thereafter, the said payment was also stopped, however, he is unable to refute the stand of learned senior counsel that the agreement is of 31.05.2017 and the other two accused, namely, Byas Kumar Verma had resigned much prior to that.

On the other hand, learned State counsel assisted by SI Jeet Singh opposed the prayer, however, it is not disputed that the investigation of the case is complete and final report stands filed on 18.10.2021. He on instructions further states that the case is now fixed for 02.09.2022 for framing of charge before the trial Court.

After hearing learned counsel for the petitioners, considering the above background, custody of the petitioners and the nature of the offences, which are triable by Magistrate as well as the fact that the trial is yet to commence, this Court is of the opinion that the conclusion of trial is likely to consume considerable time, therefore, further detention of the petitioners may not serve any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, 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/Duty Magistrate concerned.

The petitions are allowed.

20.05.2022

vanita

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No