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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision :22.11.2023***

\+ **BAIL APPLN. 3122/2021**

MOHIT GOEL ..... Petitioner

Through: Mr. Pradeep Kumar Arya, Mr. Aditya Yadav, Mr. Arpit Bamal, Mr. Pulkit Chadha and Ms. Deepika Narwal, Advocates.

versus

STATE OF NCT OF DELHI ..... Respondent

Through: Mr. Amit Ahlawat, APP for the State with SI Kuldeep P.S. Model Town.

CORAM:
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

RAJNISH BHATNAGAR, J (ORAL)

1. The present bail application has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR 25/2021 under Section 420/34 IPC registered at Police Station Model Town.

2. Briefly stated, the facts of the prosecution case are that on 18.01.2021, on the basis of a complaint against the petitioner who is alleged to be in the business of agricultural products, an

FIR bearing No. 025/2021, U/s 420/34 IPC was registered.

3. In the complaint, the complainant namely, Sh. Abhinav Jain, proprietor M/s Shikha Agra India and resident of M-4/8A Model Town Delhi *inter-alia* stated that in the month of February, 2020 persons namely Mohit Goel (petitioner herein) and Sadir Ali approached and represented that they along with their partners, namely, Mosraful, Sone Lal, Vijay Kumar, Mrs. Nil Kamal were running a business of agricultural products in the name and style of "Ayurvedic Commodities Company" and thereafter demanded supply of 50,000 Kg of Chana to meet the shortfall of their supply to Delhi Government. As a result, believing the representation of the alleged persons, complainant supplied 50,000 Kg of Chana at Rs.55/Kg to the alleged firm namely “Ayurvedic Commodities Company".

4. It is alleged that out of the total payment of ₹27.5 lacs, advance payment of ₹5.50 Lacs i.e., 20% of the payment and one post-dated cheque of ₹22 Lacs as security was given to the complainant against the supply of goods. When the post dated cheque was presented after the delivery of goods, the same got dishonoured and the remaining payment of ₹22 Lacs was not done by the accused persons to the complainant.

5. Thereafter, being aggrieved, complainant filed an application u/s 156(3) Cr.P.C. and in compliance of the order passed by the Ld. MM, Rohini Court the present FIR bearing

No.25/2021 U/s 420/34 IPC was registered at P.S. Model Town and investigation was taken up.

6. I have heard learned counsel for the petitioner, learned APP for the State and have perused the records of the case.

7. It was argued by the learned counsel for the petitioner that the alleged transactions in question took place between the Complainant and the firm M/s Ayurvedic Commodities Company, which is the proprietorship concern of Mr. Sone Lal and the Applicant herein has no connection. It was further argued that the petitioner is a businessman and is director of one company, namely, M/s Family of Dry Fruits India Pvt Ltd and in no manner associated with/linked to the said accused firm and it is only Mr. Sone Lal who is responsible for the working & affairs of M/s Ayurvedic Commodities Company which is apparent from the GST registration certificate of the said firm which is a public document. It was further argued that the complainant's own version confirms the post-dated cheque bore Mr. Sone Lal's signatures as the proprietor of M/s Ayurvedic Commodities Company, indicating no connection between the present petitioner and the said firm. It was further argued that the present petitioner is already embroiled in a money dispute with M/s Ayurvedic Commodities Company and its proprietor, Mr. Sone Lal, and in this regard, a separate FIR bearing No. 0183/2020 was got registered by the petitioner on 12.03.2020 against the said firm and its officials. It was further argued that

the Complainant has made misleading averments in the present FIR by stating that the petitioner herein has several cases pending against him but in reality all those cases have already been quashed.

8. Alternatively, it was argued by the learned APP while vehemently opposing the present anticipatory bail application and arguing on the lines of status report that the allegations against the petitioner are serious in nature. It was further argued that the complainant provided documents, including a purchase order, bills, and a cheque signed by Sone Lal as the proprietor of the alleged firm M/s Ayurvedic Commodities Company and scrutiny revealed that all documents were issued in the name of the firm. It was further argued that the complainant also mentioned the absence of any tender copy from the Delhi Government submitted by the alleged persons, emphasizing the firm's representation, subsequently, a notice under Section 91 Cr.P.C. was served to the bank, obtaining details confirming Sone Lal as the sole proprietor of "Ayurvedic Commodities Company" at H-106 Sector-63 Noida, UP. It was further argued by learned APP that enquiry was conducted from P.S. Sector-58 Noida which uncovered the petitioner’s arrest in 09 other cheating cases with a similar modus operandi as the present FIR, indicating close associations with the other accused who collectively defrauded numerous companies/firms. It was further argued that two persons namely Keshav Pal Singh and

Anurag who were employees of alleged firm "Ayurvedic Commodities Company" from December-2019 to June-2020 were examined and their statement U/s 161 Cr.P.C. were recorded wherein they stated that Ayurvedic Commodities Company was being run by the petitioner herein and his associates and when the above said office was raided by Noida Police they came to know that through this company, the petitioner and his associates have cheated a number of firms/companies by placing orders for various goods & then not making complete payment after obtaining delivery of ordered goods. It was argued that the present petitioner is a habitual offender and is involved in 13 other criminal cases. It was further argued that the anticipatory bail application is strongly opposed as custodial interrogation is necessary to unearth the whole nexus of alleged persons as the whereabouts of the other co-accused is not known, Sone lal is still absconding, who have together cheated number of persons/firms/companies using the same modus operandi.

9. Section 420 IPC has prescribes punishment for cheating and dishonestly inducing delivery of property. Section 415 IPC defines 'cheating'. Section 415 IPC reads as follows:-

> *"415. Cheating.- Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if*

he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body , mind , reputation or property , is said to "cheat"."

The essential ingredients of the offense of cheating are: 1. Deception of any person; 2. (i) Fraudulently or dishonestly inducing that person- (a) to deliver any property to any person: or (b) to consent that any person shall retain any property; or (ii) intentionally inducing that person to do or omit to do anything which he would not do or omit if he were no so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property.

10. A fraudulent or dishonest inducement is an essential ingredient of the offence. A person who dishonestly induces another person to deliver any property is liable for the offence of cheating.

11. Section 420 IPC prescribes punishment for cheating and dishonestly inducing delivery of property which reads as under:-

"420. Cheating and dishonestly inducing delivery of property. - Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

12. The petitioner's sole contention in the current matter is disassociation from the alleged firm, namely, M/s Ayurvedic Commodities Company, owned by Sone Lal, who is currently absconding. Statements of two witnesses employed with the above said firm recorded under Section 161 Cr.P.C. contradict the petitioner's claim that petitioner is nowhere associated with the above said company. Given the gravity of the allegations and the need to unravel the purported conspiracy, the custodial interrogation of the petitioner is deemed necessary. Confrontation with co-accused Sone Lal is also warranted, considering the petitioner's disassociation claims.

13. On perusal of the FIR, it cannot be concluded that the allegations made therein do not *prima facie* constitute any offence or make out the case alleged against the accused or the criminal proceeding is found to have been initiated with a malice to wreck vengeance or the allegations are absurd or improbable.

14. It is pertinent to mention that as per the status report the petitioner has not cooperated in the investigation even after getting indulgence from this Court in form of anticipatory bail vide order dated 15.03.2023. One cannot lose sight of the fact that other co-accused persons are absconding.

15. As far the contention of the learned counsel for the petitioner with regard to the fact that other cases against the petitioner has been quashed is concerned, it is for the reason

following the petitioner's agreement, payments were made to settle with the victims.

16. Notably, on 15.03.2023, the counsel for the petitioner, on instructions from the petitioner, volunteered to pay an amount of ₹10 lacs to the complainant, and in view of his *bona fide,* the petitioner herein as an interim measure was granted anticipatory bail. Thereafter, the matter was adjourned to 14.04.2023 for compliance but as 14.04.2023 was declared holiday, the matter was listed on 17.04.2023. Thereafter on 18.05.2023, the matter could not be taken up for hearing and was further adjourned to 10.07.2023. In the meanwhile, on 02.06.2023 being aggrieved, the complainant filed an application being CRL.M.A. 16098/2023 seeking cancellation of anticipatory bail granted to the petitioner vide order dated 15.03.2023 on the ground that he has not paid the aforesaid amount and the notice of the application was issued to the petitioner returnable for the date fixed, i.e., 10.07.2023. On 10.07.2023, the petitioner sought sometime to pay the above said amount by stating that another bail application is coming up before the Allahabad High Court on 25.07.2023 and the petitioner may be given time till 30.07.2023 to comply with the order dated 15.03.2023. In view of the submission for the petitioner, time was granted and the matter was posted for 31.07.2023. On 31.07.2023, counsel for the petitioner sought and was granted last opportunity of 15 days for compliance and hence, the matter was listed for 21.08.2023 and thereafter for 13.09.2023. On 13.09.2023,

counsel for the petitioner sought an additional time of 10 days for compliance as the petitioner was recently released from judicial custody and the matter was further adjourned to 03.10.2023. On 03.10.2023, none appeared for the petitioner and the matter was again listed on 11.10.2023. Finally, on 11.10.2023, the petitioner showed his incapability to comply with the order dated 15.03.2023.

17. The petitioner in garb of getting the interim order made such a statement which ultimately he was unable to fulfil and left the complainant high and dry. This conduct of the petitioner shows the petitioner had no intention to pay the amount from the very beginning and it was just a ploy to get indulgence which he received and enjoyed the same for at least 9 months and kept on delaying the matter on the one pretext or the other.

18. In such sequence of facts and looking into the conduct of the petitioner which is highly unacceptable and taking into account the fact that the investigation is still pending, furthermore, instead of fulfilling his *bona fide*, the petitioner enjoyed the indulgence granted by this Court and took the investigating agency for a ride. Therefore, keeping in view the gravity of allegations, nature of the crime and the conduct of the petitioner, no ground for bail is made out. Consequentially, the present anticipatory bail application stands dismissed and the anticipatory bail granted to the petitioner vide order dated 15.03.2023 stands cancelled. The present petition stands disposed of.

19. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of the case.

CRL.M.A. 16098/2023

20. In view of the order passed in BAIL APPLN. 3122/2021, no order is required to passed in the present application.

21. The application stands disposed of.

RAJNISH BHATNAGAR, J

NOVEMBER 22, 2023/ib