IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRM-M-13138-2023(O&M)

Date of Decision:-21.08.2023

Deepak Chanana.

......Petitioner.

Vs.

State of Haryana.

......Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Ms. Naveen Malik, Advocate for the Petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

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JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.102 dated 22.04.2022 under Sections 419, 420, 467, 468, 471, 120-B IPC registered at Police Station Civil Lines, Gurugram.

2. The present FIR came to be registered at the instance of Mr. Mahesh Swamy, Business Development Manager of M/s Invent Info Solutions the proprietor of which was Mr. Kalyan Singh against six persons namely, (1) Rahul son of Sh. Rajesh, (2) Praveen Gulia son of Sh. Dalip Singh, (3) Virendra son of Shri Kulbhushan Rai, (4) Vinay Mittal son of Shri Vipin Mittal, (5) Akshay and (6) Naveen. As per the allegations the accused persons contacted the complainant on 23.12.2021 for the purchase of hardware items and placed an order for HP Laptops, Dell Laptops and Apple Laptops along with certain other items. The said articles were delivered through various invoices/bills from time to time as per the orders

of the accused. In this way goods worth Rs.60,88,150/- were sent to the accused. On repeated demand, the accused paid a sum of Rs.19 lacs and issued cheques for part payment which were dishonoured. The said cheques had been issued from a firm, namely, M/s Naya Jewels in which one Rahul Kumar signed as the proprietor. When the cheques were presented for encashment they were all dishonoured. Thereafter the accused persons started lingering on the matter on one pretext or the other and did not make any payment. When the proprietor of the complainant-firm along with the authorised signatory met the accused persons the said accused used abusive and indecent language with the complainant and threatened to kill them. Accused Parveen Gulia threatened them (complainant party) that he had political connections and they (complainant party) along with their family members would suffer harm. On an enquiry it transpired that the accused had cheated a number of firms such as (i) Microworld Infosol Pvt. Ltd. (ii) City Circuit, (iii) Silver Touch (iv) Silicone Global Services, (v) Moonstar, (vi) Codenyx (vii) Wroffy, (viii) Karishma, (ix) Esprim System Pvt., Ltd.

During the course of investigation, the details of the companies M/s Naya Jewels and M/s Fresh Grow (both having their registered office at Plot No.A-106, Upper Ground Floor, Sector 136, Noida) were obtained from the Registrar of Companies and it came forth that the said companies were not registered in Delhi or Haryana. The owners of these companies were found to be one Rahul Kumar and the cheques in lieu of the goods purchased from the complainant party had been found to be issued from the account of Rahul Kumar. It also came forth during the investigation that accused Rahul Kumar along with his associates Vinay Mittal, Virendra Rai (since granted bail vide order dated 28.07.2023 by the court of Additional Sessions Judge, Gurugram), Praveer Gulia, Deepak (petitioner) and Akshay had sold one thousand laptops purchased from the complainant companies to Tarun Jain upon GST the Bills of the fake company by the name of M/s Fresh Grow.

Accused Rahul Kumar was arrested on 02.11.2022. His disclosure statement was recorded wherein he stated that accused Vinay Mittal and his wife Namrata Sahni used his (Rahul's) Aadhar Card, Pan Card and photo without his permission.

It also came forth that the company M/s Fresh Grow had been registered only for doing the business of Rice, Pulses, Spices and Vegetables. It further came forth that the accused Vinay Mittal had himself affixed the signatures of accused Rahul on two of the cheques. Vinay Mittal and his wife Namrata Sahni had also got prepared fake documents of divorce so as to deceive the victims and police along with the other accused. On 04.11.2022 the complainant produced two cheques upon which the signatures of Rahul had been affixed by the accused Vinay Mittal. The same were taken into possession on 05.11.2022. The specimen signatures of Rahul Kumar were obtained.

On finding the involvement of petitioner-Deepak Chanana in the case his computer kept in the office was checked on 22.11.2022 in which the email dispatched by accused Vinay Mittal was also found. Upon this, a notice under Section 91 Cr.PC was issued to Deepak Chanana.

Tarun Jain was joined in the investigation to whom the accused had sold the laptops. During interrogation he disclosed that accused Deepak Chanana had received Rs.5 lacs in cash as commission.

Deepak Chanana was arrested on 18.01.2023 and got recovered 03 laptops. On the disclosure statement of Deepak Chanana co-accused Parveer Singh and Virendra Rai were arrested. Thereafter the specimen signatures of Deepak Chanana, Parveer Singh and Virendra Rai were obtained and sent to the FSL for comparison the results of which have been received. The report under Section 173(2) Cr.PC was presented against Deepak Chanana, Parveen Singh and Virendra Rai.

3. The counsel for the petitioner contends that taking the prosecution case to be the gospel truth it would amount to a civil dispute at best. So far as the petitioner is concerned, he received a commission of Rs.5 lacs for facilitating the sale of laptops. Therefore, no criminal liability could be affixed upon him. As he was in custody since 18.01.2023 and none of 29 prosecution witnesses had been examined so far, he was entitled to the concession of bail, more so when one of the co-accused namely Virendra Rai had been granted the similar concession vide order dated 28.07.2023 by the court of Additional Sessions Judge, Gurugram.

4. The counsel for the State on the other hand contends that the petitioner and his co-accused have cheated the complainant of an amount of Rs.1,06,00,000/-. Therefore the serious nature of the allegations levelled against the petitioner and his co-accused did not entitle him to the grant of bail. He however, concedes that the petitioner is in custody since 18.01.2023, none of the 23 prosecution witnesses have been examined so far and one co-accused, namely, Virendra Rai has been granted the concession of bail.

5. I have heard the learned counsel for the parties.

6. This Court in the case *titled as* ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab*** bearing ***CRM-M-24033-2021(O&M)*** *Decided on* ***31.08.2022*** has held as under:-

> " *Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts) , in economic offences*

> *involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant."*

7. The veracity of the prosecution case shall be adjudicated upon during the course of the trial. There is no serious apprehension expressed by the learned Counsel for the state that the petitioner would abscond from justice, tamper with the evidence or influence the witnesses, if he is granted the concession of bail. Even otherwise, the petitioner is in custody since 18.01.2023 and none of the 29 prosecution witnesses have been examined so far. Therefore the trial of the present is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not warranted.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Deepak Chanana** son of late Sh. D.V. Chanana Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

10. If the petitioner or any of his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this Court.

11. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

August 21, 2023
Vinay

Whether speaking/reasoned	***Yes/No***
Whether reportable	***Yes/No***