

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

208

CRM-M 16325 of 2023

Date of Decision: 26.05.2023

Goyani Vijay Kumar

.....*Petitioner*

Versus

State of Haryana

.....*Respondent*

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH.

Present: Mr. Naresh Jain, Advocate for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

Mr. Gaurav Verma, Advocate
for the complainant.

GURBIR SINGH, J (ORAL)

The prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case bearing FIR No.0040, dated 04.02.2023, under Sections 406, 420, 467, 468 read with 34 IPC, registered at Police Station Tehsil Camp, Panipat, District Panipat.

Learned counsel for the petitioner has placed on file Annexures P10, P11 and P12 as also copy of certificate issued by one Valjibhai B. Goyani, President, Sangana Row House Part-1, Puna (Surat).

Learned State counsel for the complainant has placed on file a copy of verification report dated 25.05.2023 given by police Inspector Sarthana Police Station, Surat City Gujarat.

As per allegation, on 14.10.2022, as per demand of the accused, as per bill No.585, thread worth Rs.8,64,938/- and from Ankit Enterprises,

on bill No.934 thread worth Rs. 9,78,165/- was sent. Petitioner and co-accused also received material from the brother of the complainant which was sent as per bills. Part payment was made by the accused. The accused had taken material from them fraudulently. When they demanded their balance amount, accused told that they had sold their material and they did not have any money. On checking of GST portal, they came to know about two bogus bills which were made in the name of the firms. On inquiry, it came to light that accused Gayani Vijay Kumar son of Ghan Shyam Bhai without mentioning price and quantity generated bill No.105 which was bogus in comparison to Bill No.585 to the complainant. Similarly bill No.106 was prepared in comparison to bill No.934 of his brother firm. Both bills were bogus and in both the bills, no vehicle number is mentioned. In one of the bills, name of Transport Company V.R.L. Logistic Ltd is mentioned. On inquiry, they came to know that no material was sent and the accused in connivance with the Transport company committed fraud.

Learned counsel for the petitioner has submitted that the dispute between the parties is simply civil in nature. The brother of the petitioner was running a business by the name and style of Rang Enterprises which has been doing the business with the three firms of the complainant and his brother since 2018. The entire amount was paid. At this time material was found defective, so petitioner proposed to return the amount and ordered for some more material. E-bill No.105 and 106 were generated. On the same day, they refused to take back material from the Rang Enterprises and both the bills were immediately cancelled within 24 hours. Copies of the bills and cancelled bills are Annexures P2 to P5. No forgery

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has been committed. The petitioner has given his permanent address and now petitioner is temporarily residing at some other place. Certificate (Annexure P10) is given by the President of Sangana Row House Part-1, Puna Surat, in this regard.

Learned State counsel and counsel for the complainant have opposed the request of the petitioner. It is submitted that petitioner has not been residing at the address given in the petition for the last six years. As per certificate dated 25.05.2023 issued by the Police Inspector Sarthana Police Station Surat City, Gujarat to the Incharge Police Station, Tehsil Camp Panipat PS, Haryana. The certificate (Annexure P-10) produced by the petitioner is without any basis. Annexure P-12 is a rent agreement executed by the petitioner showing that rent of the property is Rs.3000/- per month. It is unbelievable that a person would rent out the property in the area of Puna (Surat) for such a meagre price. Moreover, this document is created on 15.05.2023 just to create evidence that now petitioner is residing there but there is specific report that petitioner is not residing at the address which is shown as permanent for the last six years. The intention of the petitioner from the initial stage was to commit fraud and in order to accomplish the same, two forged bills were generated. The said bills were also sent by the petitioner on the mobile phone of the complainant. The said mobile phone is yet to be recovered.

Heard.

It is not disputed that two E-bills No.105 and 106 were generated and copies of the same were sent to the complainant on the mobile phone. There is no explanation why the same were generated. Prima

facie same were generated to cause wrongful loss to complainant. The report of the concerned Police Inspector, Sarthana Police Station, Surat City, Gujarat is as under:-

'By letter with the above subject and reference to said that, Tehsil Camp Police Station, Haryana FIR No.40 dated 04.02.2023. Under Sections 406, 420, 467, 468, 34 Of IPC. Accused of Goyani Vijaykumar S/o Ghanshyambhai R/o A-38. Sangana Row House Punagam. Surat, Gujarat Received your letter for inspection at the residential building in this regard. Head Constable Umeshsing Ghanshyamsing B.No.1241 Job Sarthana Police Station, Surat City, after checking the house of the accused, the accused was not found present. In the house where Vinubhai Manjibhai Goyani age 52 business in retired. R/o. A-38, Sangana Society. Punagam, Surat. he was residing there for the last 6 years. So the accused was not found residing at the said address.'

Petitioner is not residing at the address mentioned in the petition but petitioner has tried to justify the same by producing certificate (Annexure P-10) coupled with the rent agreement dated 15.05.2023 (Annexure P-12). In the reply filed by State, it is mentioned that petitioner is not residing at the address mentioned in the petition. Learned counsel for the petitioner on 15.05.2023 sought time to produce documents about address of petitioner. Thus petitioner has tried to mislead the Court.

The learned trial Court granted interim bail to the petitioner but he did not co-operate so the learned trial Court dismissed his petition vide order dated 06.03.2023 (Annexure P-6).

Keeping in view the peculiar facts and circumstances of the case, I am of the view that custodial interrogation of the petitioner is necessary to complete the investigation, the petitioner is not entitled for anticipatory bail.

Petition stands dismissed accordingly.

26.05.2023

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(GURBIR SINGH)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No