

225

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-26633-2023 (O&M)

Date of decision: 18.08.2023

Sanjeev Kumar

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:** Mr. K.P. Dhaliwal, Advocate
for the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.256 dated 15.12.2021, registered under Sections 420, 465, 467, 468, 471 read with Section 120-B of IPC at Police Station, Bhawanigarh, District Sangrur, Punjab.

2. Per First Information Report (FIR), an application dated 03.06.2021 was given by the Deputy Registrar, Co-operative Societies, Sangrur for taking action against owner/partner/ manager of Goyal Sales Corporation namely Simranjeet Singh, President Gurtej Singh and members of Administrative Committee. It was stated by the Administrator of the Bhawanigarh Kissan Co-operative Marketing-cum-Processing Society Limited Bhawanigarh that a resolution dated 31.05.2021 was passed to the effect that an amount of Rs.1,68,09,913.50/- is recoverable on account of sale price of the goods from the owner/partners of Goyal Sales Corporation, namely Sanjeev Goyal, Abhishek Kumar Goyal, Sanjeev Kumar (petitioner). It was alleged that society's manager, namely Simranjeet Singh and the Administrative Committee misused their powers. Upon inquiry, it was found that Abhishek Kumar, Sanjiv Kumar (petitioner) in connivance with Bachittar Singh and other co-accused got the membership of the said Society in the name of Goyal Sales Corporation, Ratola (Malerkotla) against the rules and bylaws of the Society. They purchased various goods including sugar and *ghee* for an amount of Rs.2,16,27,913/-, and out of the said amount, Rs.1,68,09,913/- was to be recovered from them. It was found that Goyal Sales Corporation, Ratola did not fall into the area of Bhawanigarh Society and could not be made nominal

member of the same. No GST number of Goyal Sales Corporation, Ratola was found in the record at the time when they were nominated as nominal members. Abhishek Kumar and Sanjiv Kumar (petitioner) had deposited an amount of Rs.48,18,000/- on different dates with the Society, but Rs.1,68,09,913/- was still due against the accused. Abhishek Kumar gave a cheque issued by petitioner for Rs.1 crore 66 lakh, but on presentation of the said cheque, same was dishonoured as signatures did not match. The Society was thus cheated for a sum of Rs.1,68,09,913/-.

3. Petitioner himself surrendered before learned JMIC, Sangrur on 13.03.2023 and is in custody since then.

4. Learned counsel for petitioner submits that neither petitioner is neither a partner in M/s Goyal Sales Corporation, Ratola/nor is he an administrative member of the society. He is not even known to the complainant. Merely because the other co-accused namely Abhishek Goyal has family relations with the petitioner, he is being considered as a suspect. In fact, petitioner had availed a limit loan from AU Small finance Bank to the tune of Rs.13 lakh approximately. He used to advance money to Abhishek Goyal on interest on being assured by Abhishek Goyal to pay back the same with higher rate of interest. Even Abhishek Goyal has also deposited various loan installments in the account of the petitioner sometimes in cash/at times through RTGS which shows that there were only loan transactions which took place between the petitioner and Abhishek Goyal and the petitioner had no concern with the alleged goods sold by society to Abhishek Goyal. Abhishek Goyal misused the blank cheque of the petitioner and handed over the same to complainant society by filling up a hefty amount to the tune of Rs.1,66,00,000/-. He further submits that no motive can be attributed to the present petitioner at all. There is no direct evidence against him. He is not required for further custodial interrogation. He further submits that co-accused has already been granted bail by learned trial Court. He further contends that petitioner himself had surrendered before learned trial Court on 13.03.2023.

5. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious offence. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. He further urges that bail of co-accused has been granted by learned trial Court as per provisions of Section 167(2) Cr.P.C. Petitioner can

not thus seek any parity. He further submits that two other cases of similar nature are pending against him.

6. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

7. On a Court query, under instructions from ASI Karamjit Singh, learned State counsel submits that challan was presented on 31.05.2023. Investigation is thus complete *qua* petitioner, he is not required for custodial interrogation. There are 27 prosecution witnesses and next date before learned Court below is 28.08.2023. Commencement/conclusion of the trial is likely to take quite sometime. Allegations against petitioner are a matter of trial at this stage. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been languishing in jail for the last 05 months in preventive custody, he being behind bars since 13.03.2023.

8. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/ or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

9. Be that as it may, offence allegedly committed by petitioner is of non-violent nature and in that sense, his release on bail is not a threat to the society at large by committing any violent crime.

10. Petitioner is stated to be married, 47-year old person having two minor children, wife and ailing mother, who are all dependent on him. He is the only breadwinner of his family. Being a married person with family responsibilities and fixed abode, he poses no flight risk and is not a threat to society in any way.

11. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

12. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of Ld. trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

13. In case, petitioner is found to be involved or gets involved in any offence while

14. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.
15. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

18.08.2023
vandana

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