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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-40117-2023 (O&M)
Date of decision: August 22, 2023

Satwinder Singh

….Petitioner

versus

State of Punjab

….Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. A.P.S. Deol, Senior Advocate with
Mr. Rahul Srivastava, Advocate and
Mr. Himmat Deol, Advocate for petitioner.

Ms. Guramrit Kaur, DAG Punjab.

Mr. Ashish Aggarwal, Advocate for complainant.

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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.250 dated 24.12.2021, registered under Section 420 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station, Gharinda, Amritsar Rural, Punjab.

2. According to the FIR/prosecution's version, the complainant is proprietor of M/s SSB Enterprises, Amritsar. This firm is engaged in the import and export of medicines from Amritsar to various foreign countries. Allegations are that sometime in year 2012, Satwinder Singh (the petitioner) entered into an agreement with the complainant's firm to purchase medicines. Satwinder Singh conducts his business under the name of M/s Nova Pharma Limited, Tashkent, Uzbekistan. Pursuant to the agreement, the complainant's firm initiated business transactions and started the supply of medicines to the petitioner's firm. Subsequently, the petitioner began transferring payments to the complainant's company's account held at the Bank of India. Dispute arose with regard to some alleged outstanding dues payable by the petitioner to the complainant.

On 22.03.2015, the petitioner, accompanied by his father, visited the complainant's office and assured him that the outstanding dues would be settled shortly. They requested the continuation of supplying medicines on a credit basis in the meanwhile.Consequently, the complainant's firm supplied medicines to the petitioner's firm, amounting to approximately Rs. 2,98,44,391/-. This sum required to supply medicines was taken by the complainant's firm from its banker through a CC (Cash Credit) limit. Following the emergence of the COVID-19 pandemic, the bank began pressuring the complainant to repay the outstanding amount. Otherwise, the complainant faced the prospect of his loans being categorized as Non-Performing Assets (NPAs) and the potential attachment of his property. On the other hand petitioner wouldn’t clear his outstanding despite supply of medicines to him. An FIR was registered. During investigation, petitioner was arrested from airport on his arrival in India on 29.06.2023and is in custody ever since.

3. LearnedSenior counsel for the petitioner would submit that per complainant’s own version, business between complainant’s and petitioner’s entities started sometime in the year 2012. Thereafter, they have been having a running account *qua* consignments sent from India to Tashkent/ Scotland from time to time. Further submits that, payments of all the dues *qua* the petitioner were being remitted all throughout without any default till 2017. Thus, it has been a symbiotic relationship, where both the parties were doing their business gainfully to earn profits. He further submits that based on some fictitious account, which were never reconciled with the petitioner or his representatives, a false case has been now made against him, as if the petitioner has defaulted against payment of supplies delivered to one of his representatives based at Scotland. He further submits that in fact, shoe is on the other foot.It is the complainant trying to defraud the petitioner, who is a gullible NRI (Non-Resident Indian).Complainant is taking advantage of petitioner posing blind faith in the complainant during the time he was carrying out business dealings with him. He would point out that same is borne out from the fact that, being unaware of the maliciousness of the complainant, when petitioner landed in India, he was arrested as bolt from blue stating that there is a Look Out Circular (LOC) issued against him in the FIR in question. He would point out that, at no stage, petitioner was issued any notice to appear before the investigating officer. In any case, he would argue that it is an out-and-out case of

business dealings having gone disarray due to ill-intention of complainant. Petitioner has thus been falsely implicated, he would argue. He further asserts that, be that as it may, it is an open and shut case of civil dispute, even if there is any outstanding liability payable by the petitioner to the complainant, as alleged against him.

3.1. Learned senior further urges that nothing is to be recovered from the petitioner and no useful purpose would be served by keeping him behind bars.

4. On the other hand, learned State counselon instructions from ASI Davinderpal Sing has well as learned counsel for complainant, jointly oppose the petition. They submit that petitioner has committed a serious offence.Petitioner failed to repay huge amount due towards him to the complainant company for supply of medicines. Company of the petitioner does not exist. If enlarged on bail, there is every likelihood that he will commit similar offence and/or will flee from trial, and he might tamper with evidence or influence/ intimidate the witnesses. However, learned State counsel admits that there is no other case against the petitioner.

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

6. It is stated by learned Senior counsel that it is inconceivable as to how the said Company can be considered to be fake in the light of the fact that complainant has, admittedly, received large amounts of money from the said company from time to time. *Prima facie*, to me also, dispute appears to be more of civil nature. In any case, 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 jailin custody since 29.06.2023.

7. 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.

8. 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 society at large by committing any violent crime.

9. It is stated that petitioner is 55-year old person. Being family manand having clean antecedents and fixed abode at Jalandhar, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

10. 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.

11. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, on his furnishing bail bonds in the sum of Rs.10 Lakh, and given that he is an NRI, to secure his presence he shall have to provide two local sureties of the like amount i.e. Rs. 10 lakhs each, to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate concerned.Given the nature of his business, since he is required to travel abroad in course thereof, request of the learned counsel for the complainant for directing the petitioner to surrender his passport is, therefore, declined.

12. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.

13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 22, 2023
mahavir
Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No