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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-59987-2022 (O&M)

Date of decision: 19.09.2023

Surekha Mankotia and another

...Petitioners

VS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Anand Chhibber, Sr. Advocate with
Ms. Shreya Sarine, Advocate,
for the petitioners.

Mr. Mohit Thakur, AAG, Punjab.

Mr. A.P.S.Khadial, Advocate for complainant.

ARUN MONGA, J. (ORAL)

Present petition has been filed under Section 438 of Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of anticipatory bail to the petitioners in case FIR No.160 dated 12.10.2022, registered under Sections 406 and 420 of the IPC at Police Station Sangat, District Bathinda.

2. Vide detailed order dated 22.12.2022, passed by a co-ordinate Bench of this Court, the petitioners were granted concession of interim bail. The said order is reproduced hereinbelow:-

"The petitioners seek grant of anticipatory bail in respect of a case registered vide FIR No.160 dated 12.10.2022 at Police Station Sangat, Bathinda, under Sections 406 & 420 IPC.

The allegations as leveled in the FIR are to the effect that the complainant was having business transactions with the company of the accused i.e. M/s Asian Nutritions Pvt. Ltd., Gurugram for supplying cattle/poultry feed. Rajat Mankotia is alleged to be the Managing Director of the said company, while petitioner No.1 - Smt. Surekha Mankotia is stated to be a Director of the said Company. One Mukesh Jaipa is alleged to be the Purchase Manager and Shubham Mankotia (petitioner No.2) is stated to be authorized signatory. It is alleged that during the course of dealings, a payment of Rs.2,41,77,613/- came to be due to be paid by the accused to the complainant on account of supply of goods by the complainants' company to the accused. The accused promised that the entire outstanding dues would be cleared by 31.03.2022 and also offered to issue security cheques so as to ensure timely payment. However, the payment was not made by the said date and when 5 security cheques issued by the accused were presented for encashment, the same were dishonoured. It is specifically alleged that Cheque No.632462 dated 31.03.2022 amounting to Rs.97 lakh and Cheque

No.631473 dated 18.04.2022 amounting to Rs.1,00,62,799/- were dishonoured on 18.04.2022 and 25.04.2022 with the remarks "signatures differ" and "payment stopped by drawer" respectively. The complainant has alleged that the accused had initially been making payments and had won his confidence, but subsequently when the complainant started trusting the accused and when huge amount was outstanding to be paid by the accused, they very cleverly stopped making payments.

Learned counsel for the petitioners has submitted that even if all the allegations, as leveled in the FIR, are taken to be correct, it is a case of 'civil liability' only and that the complainant is trying to twist the arm of the accused by giving it colour of criminal offence. Learned counsel has submitted that the accused and the complainant had been having business transactions since the year 2020 and during the course of which about 100 odd transactions for amounts ranging from Rs.2 lakhs to Rs.28 lakhs had been made by various cheques, which have been duly honoured and that if subsequently some cheque/s came to be dishonoured either on account of settlement of accounts or want of funds, it cannot be said that the accused had cheated the complainant. It has been submitted that the complainant would have the remedies to recover the payment by way of filing a civil suit as well as to file a criminal complaint under provisions of Section 138 of the Negotiable Instruments Act.

Learned counsel has further submitted that it is Rajat Mankotia, who is the main accused and who is already behind bars and that petitioner No.1 – Surekha Mankotia, who is mother of said Rajat Mankotia, was previously associated with the Company of his son as a Director though was not actively participating in the affairs of the Company and at present is not a Director any longer. It has further been submitted that neither petitioner No.1 nor petitioner No.2 are the authorized signatories or had issued the cheques in question and as such, cannot be held liable in any manner as far as offence under Section 420 IPC is concerned.

Notice of motion for 30.03.2023.

At this stage, Mr. Arshpreet Khadial, Advocate, puts in appearance on behalf of the complainant and filed his Vakalatnama, which is taken on record. He has vehemently opposed the petition on the ground that petitioner No.1 in any case had been a Director of the Company i.e. M/s Asian Nutritions Pvt. Ltd. and as such, cannot escape from her liability. It has further been submitted that since the accused happen to be involved in large number of cases and Rajat Mankotia is facing as many as a dozen cases including cases in Madhya Pradesh, it is evident that he is a seasoned criminal, all out to dupe innocent businessmen.

Having regard to the aforesaid submissions particularly the fact that petitioner No.1 is a lady, aged about 50 years and is mother of the main accused Rajat Mankotia and also that neither petitioner No.1 nor petitioner No.2 are the signatories to the cheques in question, this Court is of the opinion that the instant case is not such where custodial interrogation of the petitioners is necessary particularly when the main accused Rajat Mankotia is already behind bars.

As such, it is ordered that the petitioners, in the event of their arrest, be released on interim bail subject to their furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioners shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C."

3. *Apropos* upon Court query, learned State counsel per his instructions from ASI Gurdit Singh, submits that petitioners have joined investigation and in view of cooperation rendered by them, no custodial interrogation of petitioners is required.
4. In view of the above, since custodial interrogation of petitioners is no more required and they have already joined investigation and cooperated with the investigating officer, present petition is allowed. Order dated 22.12.2022 granting interim anticipatory bail to the petitioners is made absolute, subject to petitioners’ complying with provisions under Section 438(2) Cr.P.C.
5. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

19.09.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No