



2023 : DHC : 6867



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Reserved on : 12.09.2023**
Pronounced on : 21.09.2023

+ **BAIL APPLN. 2704/2023**

SANJEEV JAIN

..... Petitioner

Through: Mr. Jatan Singh, Mr. Nikhil Mehta,
Mr. Vikas and Mr. Varun Sharma,
Advocates.

versus

STATE & ANR

....Respondents

Through: Mr. Amit Ahlawat, APP for the State
Mr. Anil Sharma, Mr. Aman
Bhardwaj and Mr. Arpit Sharma,
Advocates for complainant/respondent
No. 2.

CORAM:
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. The present bail application has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No. 335/2022 under Sections 420/468/471 IPC registered at Police Station Shahdara.

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2. Briefly stated, the present case was registered on the complaint of one Manish Jain, who in his complaint alleged that he is running his business of different types of Bakelite Sheets and laminated board under the name of M/s Bahubali Industries at 279, Double Storey Kabool Nagar Shahdara Delhi. There was business dealing between the complainant and the petitioner. Whenever, the order was placed by the petitioner for supply of board etc. the complainant supplied the same. The complainant supplied the goods at different times by way of different bills and lastly a sum of Rs 28,26,248/- was payable by the petitioner up to 17/03/2019 for which he was giving false assurance but he did not pay the said amount.

3. The complainant contacted the petitioner to pay the remaining balance amount in lieu of supply of goods, but he failed to pay the same. The complainant further alleged that petitioner sent a photo of an e-way bill on the Whatsapp of complainant apprising him that he is sending return goods to the complainant. But the complainant did not receive the goods at all. The petitioner had given the Truck No-HR 37 S5658 by which the goods were being returned to the complainant. But the complainant failed to trace the above said goods loaded truck. The complainant further alleged that neither, he had received his goods back till date, nor he received payment of said goods from the petitioner. During investigation it was found that vehicle No. HR 37 S5658 does not exist.



4. A similar complaint has also been made by Rakesh Kumar Jain (father of the complainant) who claims himself to be the owner of M/s Bahubali Traders against the petitioner. He levelled the allegations against the petitioner that he had sold him goods of Rs. 13,67,581/- but the petitioner failed to make the payment. The petitioner generated e- way bills in the name of Bahubali Traders showing that he has sent the goods back by vehicle No. HR 55 B 0229 to the seller but the sellers did not receive goods back. This complaint was clubbed with the main complaint.

5. I have heard the Ld. counsel for the petitioner, Ld. APP for the State assisted by the Ld. counsel for the complainant, perused the Status Report filed by the State and also perused the records of this case.

6. At the outset, it is submitted by the Ld. counsel for the petitioner that criminal colour has been given to a purely civil dispute. It is further submitted that the petitioner has joined the investigation on numerous occasions and has also responded to the notice U/s 41 A Cr.P.C. It is further submitted that petitioner has fully co-operated in the investigation and nothing is to be recovered from him. It is further submitted that even in the FIR the complainant had admitted that there was a business transaction between the petitioner and the complainant and the complainant has supplied goods to the petitioner by way of different bills up to 17.03.2019.



7. It is further submitted by the Ld. counsel for the petitioner that there is a delay of more than 3 years in filing the present FIR and the present FIR has solely been filed to pressurize the petitioner as the limitation prescribed for filing of money suit is 3 years which has already expired. It is further submitted that the petitioner is not a flight risk and there are no chances of his absconding and tampering with the evidence.

8. On the other hand, it is submitted by the Ld. APP for the state and also by the Ld. counsel for the complainant that the allegations against the petitioner are serious in nature and a similar complaint was also made by one Rakesh Kumar Jain who is the father of the present complainant levelling the similar allegations. It is further submitted that the petitioner had sent the photo of an e-way bill on the mobile of the complainant apprising him about the return of the goods but the complainant never received the goods and the vehicle No. mentioned as HR37 S5658 in the e-way bill never existed. It is further submitted that the petitioner has not co-operated in the investigation.

9. It is not denied by the prosecution that the petitioner has joined the investigation as and when called by the IO. The transaction pertains to the year 2019 and the present FIR was registered in the year 2022. Moreover, it was stated by the Ld. APP that the petitioner has not co-operated in the investigation but it appears to be a bald averment as nothing has been stated in the status report as to in what manner the



petitioner has not co-operated in the investigation. Rather, the petitioner has been joining the investigation during the period he was protected by the Ld. Sessions Court.

10. Looking into the facts and circumstances of the case, custodial interrogation of the petitioner is not required. He has already joined the investigation on numerous occasions and all the sections invoked against the petitioner entail punishment up to 7 years. In these circumstances, the application is allowed and it is ordered that in the event of arrest, the petitioner be released on bail on his furnishing a personal bond in the sum of Rs. 20,000/- with one surety of the like amount subject to the satisfaction of the IO/SHO concerned. However, the petitioner is directed to join the investigation as and when called by the IO. The bail application is disposed of accordingly.

11. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.

RAJNISH BHATNAGAR, J

SEPTEMBER 21, 2023

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