# IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

**BEFORE**

**HON'BLE SHRI JUSTICE PREM NARAYAN SINGH**

**MISC. CRIMINAL CASE No. 51321 of 2023**

**BETWEEN:-**

**ROOPAL W/O CHETANBHAI MAVANI THROUGH MR. DIGNESH LAKHANI S/O GHANSHYAM LAKHANI, AGED ABOUT 31 YEARS, OCCUPATION: BUSINESS BHOOMI ROW HOUSES OPPOSITE BHAGAT NAGAR GURUKUL ROAD SURAT GUJARAT (GUJARAT)**

**.....APPLICANT**

***(BY SHRI VEER KUMAR JAIN, LEARNED SENIOR ADVOCATE ALONGWITH SHRI ARIHANT KUMAR NAHAR, ADVOCATE)***

**AND**

**THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH POLICE STATION CRIME BRANCH INDORE (MADHYA PRADESH)**

**.....RESPONDENT**

***(BY SHRI SUDHANSHU VYAS, ADVOCATE FOR OBJECTOR)***
***(BY SHRI H.S. RATHORE, GOVERNMENT ADVOCATE)***
***(BY SHRI GAURAV CHHABRA, ADVOCATE FOR OBJECTOR)***

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| ***Reserved on*** | ***:*** | ***01.02.2024*** |
| ***Pronounced on*** | ***:*** | ***02.02.2024*** |

*These applications having been heard and reserved for order and the Court pronounced this day following:*

**ORDER**

Heard and perused the record.

This first bail application has been filed on behalf of the applicant under Section 439 of the Code of Criminal Procedure for grant of bail relating to Crime/FIR No.54/2023 dated 22.09.2023, registered at Police Station-Crime Branch, District-Indore (M.P.) for the offence under Sections 420, 409, 467, 468 & 470 of IPC, 1860. The applicant is in custody since 29.10.2023.

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2. Before dwelling upon bail, it is pertinent to mention here that earlier this Court has passed the bail order dated 23.11.2023 against which the applicant approached Hon'ble the Apex Court and vide order dated 08.01.2024, Hon'ble Apex Court has passed the order of remand for fresh hearing of this application and decide the same on merits without being influenced by the order of this Court as well as order of Hon'ble Apex Court.

3. Succinctly, the case of the prosecution is that, the police has received an information on written complaint from complainant Henna Day W/o Devashish that Manager of the Sky High Trade Links Pvt. Ltd. has got an order on 10.05.2023 from Noor Al Hiba Trading L.L.C., Dubai for supplying/exporting 13 matric tons cumin seeds (jeera) to a Dubai based company AI Hiba Trading LLC. Further, Bhavesh Vijayvargiya, who is agent of complainant company, has initiated process to procure cumin seeds and he contacted Mr. Rajesh Chettiar, representative of Web Business Tech. Pvt. Ltd.. Mr. Rajesh Chettiar informed Bhavesh Vijayvargiya about M/s. Mhaske & Sons Trading, company of selling products (Masala) in Aurangabad. Bhavesh Vijayvargiya placed an order with M/s Mhaske & Sons to supply 13 tons of cumin seeds at the rate of Rs.425 per kg. and it was decided to send the material to JNPT Port, Mumbai on receipt of 75-80% amount of Rs.55,25,000/- . Thereafter, another order to supply 14 metric tons of cumin seeds was placed to M/s Mhaske & Sons at the rate of Rs.535/- per kg.

4. The complainant has paid Rs. 1,06,71,000/- to M/s Mhaske & Sons. Thereafter, the complainant and her husband Devashish Day who is Director of the company went to Gujrat on request of Vinay Kumar and inspected the goods kept in Jasdan in Gujrat. Vinay Kumar, the representative of M/s Mhaske

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& Sons has assured them that total goods purchased by them are available at Rajkot for sortex and packaging. Vinay Kumar proposed to sell their products in the local market and call a meeting at Surat, Gujrat where representatives of Green India, Sky High Trade Links Pvt. ltd., Sonal Cultivation and M/s Mhaske & Sons were there and thereafter, applicant was introduced to complainant wherein the applicant assured complainant that material is lying at godown of Mr. Jayendra Khaachar would be sold in local market. Further, it is alleged that M/s Mhaske & Sons and applicant have not paid the amount accrued towards sell of cumin seeds. During the investigation, it is also alleged that the applicant has produced bills and transport bills which were found forged.

5. Learned Senior counsel for the applicant submits that the applicant has been falsely implicated in the present case, she does not have any connection with the complainant as she has not received any amount from the complainant and also applicant is not privy to any transaction with the complainant. The complainant has herself mentioned connections in the FIR. He further submits that the FIR is registered in gross abuse and process to twist arm in order to illegally extract money by creating pressure on applicant. In the FIR, it is admitted that the goods were purchased by Vinay Kumar, representative of M/s Mhaske & Sons Trading and kept in godown situated at Jasdan owned by Jayendra Khachhar which was inspected by the complainant and her husband who is the Director of the company and they decided that after sortex and packaging, the same will be sent to JNPT Port, Mumbai.

6 . Learned Senior counsel for the applicant also submits that it is undisputed facts that Vinay Kumar was making false promises by saying the goods were not sent to Mumbai due to heavy rain and thereafter, he went to Kolkata for some work, further he said the goods were not sent to Dubai due to

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Bakrid festival and cancellation of FSSAI License of the company of Dubai. So far as the allegation against the applicant, of assurance for selling goods in domestic market, in the meeting held at Surat (Gujrat), where Vinay Kumar introduced the applicant with the complainant, it was decided to sell the goods in domestic market with the consent of concerned company as the license of FSSAI of the Dubai company has been cancelled. The applicant has neither made any false promise nor received any amount relating to this deal. The present applicant is a lady who is having three kids and she is in custody since 29.10.2023.

7. So far as the forged documents are concerned, the applicant has not submitted or made any false and fabricated documents. it is also undisputed fact that the representative of M/s Mhaske & Sons Trading and complainant have themselves verified the factum of availability of cumin seeds at Rajkot kept for sortex and packaging, hence, question of making forged documents does not arise in any corner of the case and if the case is seen thoroughly, the contract was executed between the complainant and M/s Mhaske & Sons Trading but no allegation has been made in the charge-sheet against the proprietor and representative of M/s Mhaske & Sons Trading, complainant has no objection in this regard and if the amount has been deposited in the account of applicant Roopal, no suit for recovery has been filed by the complainant or by the representative or proprietor of M/s Mhaske & Sons Trading.

8. Further, contentions of Shri Veer Kumar Jain, learned Senior Counsel for the applicant is that the complainant has lodged FIR beyond jurisdiction. The contract was executed with M/s Mhaske & Sons Trading. Meetings were held at Surat (Gujrat), the goods in question were purchased in Gujrat and also

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kept in the godown situated at Gujrat. It is prima facie case where the intention of the complainant to entangle applicant into a false criminal case in order to create pressure on applicant and her family to extract money illegally.

9. In the FIR, it has been also alleged that when the complainant met with applicant and her husband, the applicant and husband threatened the complainant, but regarding that incident, no complaint has ever been filed by complainant party.

10. The applicant has been arrested despite the fact that she has not having any connection with the complainant. Only on the basis of making assurance, the applicant can't be implicated in this case or kept in jail for indefinite period. Learned Senior counsel has requested that the bail application be allowed and applicant be released on bail.

11. On the other hand, learned Government Advocate and learned counsel for the objector have contended that the complainant Henna Dey, Manager of the Sky High Trade Links Pvt. Ltd. placed the order to supply cumin seeds with Mr. Prashant Mhaske, Proprietor and Mr. Vinay Kumar, representative of M/s Mhaske & Sons. Vinay Kumar has contracted with Roopal Mawani present applicant W/o Chetanbhai, who had to supply the cumin seeds at the rate of Rs.425/- per kg and Rs.395/- per kg respectively. On said assurance, payment of Rs.1,06,71,000/- was transferred to the account of M/s Mhaske & Sons trading on different dates between 20.05.2023 and 12.07.2023, who further transferred amount of Rs.99,00,000/- in the account of M/s Sonal Cultivation between 10.06.2023 to 12.07.2023, the same is well established by the bank statement of the applicant itself. The applicant has not supplied the goods and assured the complainant that the cumin seeds would be sold at the rate of Rs.635/- per kg and Rs.680/- per kg in domestic market,

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value of which was around 2.5 crores. The complainant party agreed on the suggestion made by the applicant, then the applicant informed the complainant company that the cumin seeds has been sold and amount would be transferred in the account of complainant's company soon.

12. So far as the question of contract between the complainant and M/s Mhaske & Sons is concerned, if the contract was executed between the complainant and M/s Mhaske & Sons, then why the applicant has sent Rs.1/- for confirming the account and also sent bank statement, forged bills, bilty on whatsapp chating.

13. The complainant company was required to receive money of Rs.2,59,85,000/- from the present applicant in respect of the above transaction, the applicant sent a picture (annexure-A/4) to Mrs. Henna Dey via Whatsapp showing that she has initiated an RTGS transfer of Rs.15,00,000/- in the name of Sky High Tradelinks. However, the same was never received by the complainant. The complainant time and again requested the applicant to deposit the amount and also went to Surat, where, the applicant made assurance for depositing the payment by giving false promises as she was busy in function and the goods were transported by the transport company Anki Freight Transport. Further, the applicant on 26.07.2023 by her mobile No. 9425962456 sent a SMS (annexure-A/2) and PDF statement (annexure-A/3) via Whatsapp regarding transaction to Mrs. Henna Dey, wherein it was shown that an amount of Rs.85,00,000/- have been transferred in the account of M/s Mhaske & Sons, whereas, no such amount was transferred.

14. It is further contended that the applicant has not deposited money in any of the account i.e. complaiant's company account or M/s Mhaske & Sons

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company account and with intention to commit cheating made forged documents, forge whatsapp messages regarding bank statement, forged transport bilty. When the complainant requested the applicant again and again, the applicant and her husband threatened her and said they are very influential and powerful persons in Surat and no authority can harm them in any way. A complaint has also been made in Aurangabad, Gujrat against the present applicant.

15. In the arguments advanced by the counsel for the complainant, it is submitted that the applicant has never intentend to deposit the money. After much efforts, the applicant Roopal Mavani was arrested on 29.10.2023 from a remote village of District Surendranagar, Gujrat which is around 350 km. from her home in Surat, Gujrat.

16. So far as the forged documents are concerned, during investigation the applicant submitted multiple forged documents including 3 promissory notes, certificate of purchase, GST Bill and e-way bill of Ankit Freight Ways, having seal of M/s Mhaske & Sons trading. During investigation, the police recorded the statements of owner of the transport company and his driver, from the statement of owner of the transport company Ankit Freight Ways, it is revealed that no goods were transported or booked by the applicant in the aforesaid period and also from the perusal of the statement of driver of above transport company, it is disclosed that the truck bearing No. MP20EG3183 was at another place for other work at the same time.

17. With regard to the jurisdiction of the case, the complainant company has received the order from Noor Al Hiba Trading, Dubai and further contract was done between the complainant and applicant for which the applicant has received of Rs.1/- in Indore (M.P.). That apart, forged whatsapp bank

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statements, forged transport bilty and GST Bills were also sent by applicant in Indore where the complainant resides, hence, it is crystal clear that the crime can be registered in the jurisdiction of Indore City.

18. Learned counsel for the objector has placed reliance upon the judgment passed by Hon'ble Apex Court in the case of ***Prasanta Kumar Sarkar vs. Ashis Chatterjee*** reported in ***(2010) 14 SCC 496***, wherein it is held as under :-

> **"We are of the opinion that the impugned order is clearly unsustainable. It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:**
>
> (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
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> (ii) nature and gravity of the accusation;
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> (iii) severity of the punishment in the event of conviction;
>
> (iv) danger of the accused absconding or fleeing, if released on bail;
>
> (v) character, behaviour, means, position and standing of the accused;
>
> (vi) likelihood of the offence being repeated;
>
> (vii) reasonable apprehension of the witnesses being influenced;

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and

(viii) danger, of course, of justice being thwarted by grant of bail.

It is manifest that if the High Court does not advert to these relevant considerations and mechanically grants bail, the said order would suffer from the vice of non-application of mind, rendering it to be illegal. In Masroor (supra), a Division Bench of this Court, of which one of us (D.K. Jain, J.) was a member, observed as follows:

**"Though at the stage of granting bail an elaborate examination of evidence and detailed reasons touching the merit of the case, which may prejudice the accused, should be avoided, but there is a need to indicate in such order reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence."**

19. Further, counsel for applicant has drawn attention of this Court in the case of ***Naveen Kaamra Vs. State of M.P.*** reported in ***2021 SCC OnLine MP 3898***, wherein the Hon'ble Apex Court has observed as under :-

**"9. On perusal of the case diary as well as documents available on record, it is apparent that the case is registered under Sections 420, 467, 468, 471 of IPC against the present applicant wherein, a huge amount has been involved and allegation is of using various forged documents, therefore, considering the nature and gravity of offence, this Court is not inclined to grant bail to the applicant."**

20. Learned Government Advocate for the respondent/State also contended that the applicant is proclaimed offender, made forged bills of GST

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and Transport, statements of ICICI Bank, hence, on the basis of law laid down by Hon'ble Apex Court and looking to the nature of offence and involvement of huge money in this case, the application of bail filed by the applicant deserves and is liable to be rejected. Hence, he prays for dismissal of the application.

21. I have heard the counsel for both parties and perused the record.

22. From the face of case diary, as per prosecution case, it is clear that the applicant and the complainant came into a contract for supplying the goods in question and on that account, the applicant received of Rs.99,00,000/- but she neither supplied the same nor returned the money. From the face of record, it emerged that the applicant has made forged documents of bank transactions, transport bilty, GST Bills. The statement of applicant on whatsapp chatting, shows her intention, hence, looking to the nature of the offence and facts that huge amount of cheating is involved, without expressing any opinion on merits, in view of this Court, the applicant is not entitled for grant of bail.

23. In view of the aforesaid principles of law and facts and circumstances of the case, no case is made out to allow the application filed by the applicant, hence dismissed.

**(PREM NARAYAN SINGH)**
**JUDGE**

Vindesh

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