IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M- 2763-2024
Reserved on: February 08, 2024
Date of Decision: February 12, 2024

Rakesh Kumar @ Rakesh Mahajan …Petitioner

Versus

State of Punjab …Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Anuj Dewan, Advocate for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab.

Mr. A.P.S. Rehan, Advocate for the complainant.

DEEPAK GUPTA, J.

By way of this petition filed under Section 438 Cr.P.C., petitioner prays for grant of anticipatory bail in case FIR No.107 dated 28.10.2023 under Sections 406, 420 and 120-B of IPC, registered at Police Station Division No.1, District Pathankot.

2. This is the 2nd petition for the purpose. The earlier petition was dismissed as withdrawn vide order dated 05.01.2024 passed in CRM-M-63258-2023 (Annexure P-11).

3. FIR was lodged on the complaint of Rutesh Kumar S/o Shamsher Singh, resident of Pathankot, stating therein that he deals in the purchase of repossessed vehicles with various banks. He had purchased 04 commercial vehicles bearing registration No.*PB-06-BB-3544*, *PB-06-BA-7963*, *PB-06-AY-7990 and PB-06-BB-4474* from TATA Motors Finance

Limited, by making payments to the said TATA Motors Finance Limited through RTGS. After taking delivery of the vehicle, he parked the same with Nitin Mahajan Yard Damtal along with release letter of the vehicles. He got the vehicles serviced and prepared them for resale. Complainant narrated further that Gaurav Arora, and Rakesh Mahajan *(petitioner herein)* - dealers previously had worked with him in buying vehicles. In January, 2023, complainant gave the above vehicles to said Gaurav Arora and Rakesh Mahajan for re-sale on the agreed terms and conditions. Complainant also handed over RTO 'No Objection Certificate', besides all other documents including the first owner's documents as given by him by the bank regarding the 04 vehicles. Later on, complainant was shocked to see that documents of the 04 vehicles had been transferred in the name of 3rd person. When he contacted the petitioner and co-accused Gaurav Arora, they refused to respond and rather, threatened to kill him. Complainant then went to RTO office, Gurdaspur, where it was revealed that the vehicles were transferred in the name of 3rd party on the basis of fake Bank NOC and fake documents and that the amount of 04 vehicles was transferred in the ICICI bank account of petitioner - Rakesh Mahajan. Alleging that he had been cheated to the tune of ₹14 lacs in collusion with the employees of RTO office, Gurdaspur, who transferred the vehicles on the basis of forged documents without his knowledge or consent, complainant prayed for taking necessary action.

4.1 It is contended by learned counsel that in fact the petitioner, the complainant and co-accused were involved in business of buying and selling of used vehicles in partnership since November 2022; that they used to purchase vehicles in public auctions conducted by various banks, financial companies and re-sell the same on profit and share amongst themselves the profit margin amount after deducting expenses. Petitioner has further referred to the previous transactions, which had taken place between the parties and further given details of the amount as paid to the complainant in para No.7 of the petition. It is contended further that complainant and co-accused had gone to Lucknow on 28.12.2022 to purchase poclain machine. The same was purchased for ₹26 lacs and later on complainant sold the same for ₹34 lacs. The profit was to be divided in two shares and as the complainant failed to make the payments, the dispute arose.

4.2 Petitioner has submitted further that as far as 04 vehicles referred in the FIR concerned, the same were purchased by the petitioner and the complainant by participating in the bidding process. These were sold at a profit margin, which was to be shared amongst complainant, petitioner and co-accused. Learned counsel contends that by way of WhatsApp message dated 16.02.2023, petitioner had informed the complainant about transfer of 02 of the vehicles vide Annexure P-5 and thus, complainant was aware about the transfer of the vehicles. Learned counsel contends further that on mutual settlement of the account, it was found that an amount of ₹5 lacs was payable to the petitioner by complainant and that dispute has arisen amongst the parties regarding he adjustment of that amount from the sale proceeds of 04 vehicles in question. Learned counsel contends that dispute is regarding reconciliation of the account and that by lodging the FIR, complainant has tried to give the dispute a criminal colour. Petitioner is ready to join the investigation and so, in all these circumstances, he be allowed the benefit of pre-arrest bail.

5. Opposing the bail petition, learned State counsel submits that before registration of the FIR, necessary inquiries were conducted. Besides during investigation, co-accused Gaurav Arora was arrested on 09.11.2023. Complainant produced documents of 04 vehicles in question as referred in the FIR. Bank account statements were collected. Record of the 04 vehicles was also obtained from TATA Motors Finance Limited, Pathankot and it was found that the documents, which had been uploaded on the software Vahan 4.0 at the time of the transfer of 04 vehicles by the accused-petitioner, had not been issued by the TATA Motors Finance Limited, Pathankot. Thus, documents were found to be forged.

6. The complainant of the case also filed a detailed reply explaining about the payments as referred by the petitioner. It is stated by the complainant that all those payments are in respect of the vehicles earlier purchased by the petitioner from the complainant and they have nothing to do with the 04 vehicles in question as referred in the FIR. Learned counsel for the complainant submits that the WhatsApp message as referred in the petition is vehemently denied by the complainant to have been received and that said message (Annexure P-5) is forged and fabricated by the petitioner with some computer application. It is only on inquiry from the records of RTO, Gurdaspur that complainant had come to know that petitioner had got transferred the vehicles on the basis of forged No Objection Certificate and

other documents, which were never issued by the TATA Motors Finance Limited. Prayer is made for dismissal of the petition.

7. I have considered submissions of both the sides and appraised the record.

8. As per letter (Annexure R-1) sent by TATA Motors Finance Limited to the S.H.O., Police Station Division No.1, Pathankot, on verification from the record, it was found that the documents of 04 vehicles in question, the verification of which was sought by the S.H.O., were fake and had not been issued by their office.

9. Learned counsel for the complainant has also drawn attention towards the copies of the documents, which were supplied to the complainant and that it has been found during investigation that on the basis of fake and forged documents, the vehicles were got transferred by the petitioner.

10. Having considered submission of both the sides, this Court is of the view that it is not a fit case for grant of anticipatory bail, as custodial interrogation of the petitioner may be necessary in order to unearth the entire truth regarding the fake and forged documents on the basis of which he got the 04 vehicles in question transferred in favour of 3rd party.

Dismissed.

February 12, 2024 **(DEEPAK GUPTA)**
Sarita **JUDGE**

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