

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-3245-2024
Date of decision: 10.04.2024

Ajay Garg.....Petitioner.

Versus

State of U.T. Chandigarh....Respondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Onkar Singh Batalvi, Advocate,
for the petitioner.

Mr. Manish Bansal, P.P. UT Chandigarh.

Dr. Juhi Goel, Advocate,
for the complainant.

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SANJIV BERRY, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR (Annexure P-1). Details of the FIR are as under: -

FIR No.	Dated	Sections	Police Station
320	10.10.2011	420, 120-B (467, 468, 471 IPC added lateron)	Manimajra, Chandigarh.

2. Arguments have been heard.
3. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He contends that instant FIR was registered against the petitioner along with one Ravinder Garg and Rachna Garg. Said

Ravinder Garg has since been granted the concession of regular bail by the learned Sessions Judge, Chandigarh, vide order dated 20.09.2013 (Annexure P-5) whereas the co-accused, namely Rachna Garg has since been granted the concession of anticipatory bail in CRM-M-17-2014 '*Rachna Garg and another vs. State of U.T. Chandigarh*,' vide order dated 25.03.2014 (Annexure P-6). He further contends that the petitioner has been alleged to be working as Joint Managing Director in the Company wherein the other co-accused were the Directors and alleged to have cheated the complainant. He contends that as per the list of Directors (Annexure P-2), the petitioner is having no concern with the Company in question. He further contends that although the FIR was registered in 2011 but the petitioner was not aware of the same and infact the service of summons and proclamation was effected on wrong address and was wrongly declared as proclaimed person in the case.

4. Learned counsel for the petitioner further contends that the petitioner was arrested on 27.11.2023 and since then he is in custody. He contends that challan has already been presented in the Court and material witnesses already examined but the conclusion of trial will take sufficient long time and no purpose would be served in detaining the petitioner in custody any longer. Hence, he prays for grant of regular bail.

5. *Per contra*, learned State counsel, assisted by learned counsel for the complainant, have opposed the bail petition by arguing that the petitioner posing himself, as authorized signatory of the Company, had forged and fabricated the documents, thereby cheated the complainant on the pretext by supplying the skimmed milk on behalf of the Company and then fraudulently liquidating the letter of credit and in fact he neither supplied the commodity nor returned the amount, as such, the petitioner does not deserve the concession of bail. However, he has contended that the challan against the petitioner has already been presented in the Court and 03 witnesses have already been examined out of 12 witnesses cited by the prosecution. They have shown apprehension that as the petitioner has already evaded his arrest for sufficient long period, therefore, if granted concession of bail, there are chances of his absconding again. Hence, they pray for dismissal of the bail petition.

6. After considering the rival contentions and perusing the record, it transpires that the instant case was registered against the petitioner and two other co-accused on the allegations that the petitioner was working as Joint Managing Director of the Company, whereas the co-accused were working as Directors and the petitioner by forging and fabricating the documents pertaining to supply of skimmed milk on behalf of the Company defrauded the complainant and got liquidated the letter of credit. It is alleged that the Company

never delivered the commodity nor returned the amount to the Complainant and after inquiry instant FIR was registered. The co-accused of the petitioner, namely Ravinder Garg and Rachna Garg have since been granted the concession of regular bail and anticipatory bail, respectively, as mentioned (*supra*). Learned counsel for the petitioner has placed on record Annexure P-2 showing the list of Directors of the Company wherein, although the co-accused, namely Ravinder Garg and Rachna Garg, are mentioned as Directors, but there is no mention of the present petitioner as Joint Director of the Company. Admittedly, after the arrest of the petitioner on 27.11.2023, on completion of investigation challan has already been presented in the Court and out of 12 witnesses cited by the prosecution, only 03 witnesses have already been examined. The criminal liability, if any, of the petitioner can only be ascertained after the conclusion of trial which may take sufficient long time and in these circumstances, as observed, no purpose would be served in keeping the petitioner in custody any longer to face the incarceration till the conclusion of trial. So far as the contention raised by learned State Counsel is concerned, certain conditions can be imposed to ensure the presence of the petitioner during the trial, accordingly, in the light of the above facts and circumstances, without commenting on the merits of the case, present petition is allowed and the petitioner is ordered to be released on bail on his furnishing surety bonds/bail bonds to the satisfaction of Trial Court/Duty Magistrate.

7. The petitioner is, however, directed to surrender his passport in the Court which shall be a condition precedent to accept the bail bonds. The petitioner will not leave the country without prior permission of the Trial Court and he is directed to regularly appear before the trial Court on each and every date; in case some exigency, he will seek prior permission of the concerned Court qua his exemption to appear on the date fixed and he will not tamper with evidence of prosecution in any manner.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

9. Petition stands allowed.

10.04.2024
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(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |