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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No.17768-2024
Date of Decision:-22.05.2024

NAVEEN KUMAR

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Davinder Singh Khurana, Advocate for the petitioner.

Mr. Ankit Grewal, DAG, Punjab.

Mr. Preetinder Singh Ahluwalia, Advocate for the complainant.

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SANJIV BERRY, J (ORAL)

By way of the present petition filed under Section 438 Cr.P.C the petitioner is praying for anticipatory bail in the event of arrest in FIR detailed as under (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
208	20.08.2023	420, 406, 120-B IPC	Sahnewal District Police Commissionerate Ludhiana

2. Brief facts of the case put forth by the prosecution are that a complaint was lodged by Kuldeep Singh alleging that Naveen Kumar, Tara Chand, Kamal Kumar and Sachin Kumar Sharma are employees of group companies i.e. TRB Exports Pvt. Ltd., TRBEX Impex Pvt. Ltd. which have common Directors. Both these companies are based at Ludhiana and having

their registered office at Ludhiana. The TRB Group also has its associated company in Dubai i.e DRC Metal and Commodities FZC and is in the business of import and export of non-ferrous metals which is managed from Ludhiana. The Directors of TRBEX Impex Pvt. Ltd. And TRB Exports Pvt. Ltd. Employeed Naveen Kumar as Executive Logistics and Sachin Kumar Sharma as Executive International Sales. Both of them, in their regular course of work, used to be sent to Dubai and other countries on the expenses of the complainant company. The group company DRC Metals and Commodities FZC placed purchase orders bearing nos. 36 dated 26.11.2022, 37 dated 26.11.2022, 55 dated 29.12.2022 and 68 dated 18.02.2023 with intermediary Birungi and Company for supply of non ferrous metals and paid 1003065 USD via petitioner. Despite the payment, no goods were received by the complainant company and on inquiry Naveen Kumar whose job is to handle and assure the payment and delivery of goods failed to give concrete reply or give details regarding the goods. Complainant also approached Birungi and Company and they revealed that a sum of 1003065 USD has been taken in cash by the accused no.1 on behalf of the complainant company. The complainant company/group companies and Directors have been defrauded of huge amount of 1003065 USD which has been misappropriated by the petitioner. It is also found that Naveen Kumar, in connivance with Sachin Kumar Sharma, created their separate business and cheated the complainant. Both of them caused wrongful loss to the complainant and wrongful gain to themselves. Hence the FIR.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is innocent and has been falsely implicated in this case. He

submits that all the transactions and dealings are alleged to have taken place in Uganda or Togo and the petitioner being Executive has no concern as alleged in the FIR. He submits that the allegations are purely of civil nature as the material was not delivered despite payment and the liability of the fault or negligence can be fixed by the civil Court. He submits that the petitioner has no concern with the alleged transactions and if, the container was found empty at the destination then it is the responsibility of the carrier and the petitioner cannot be held liable for the same.

4. *Per contra,* learned State counsel assisted by the learned counsel for the complainant has assailed these arguments by submitting that the petitioner was given the duty to handle and ensure the timely payments and delivery of the goods. They further submit by referring to the reply submitted by the State that the allegations levelled in the FIR were against the petitioner and one Sachin Kumar who had since been arrested and during his interrogation, he disclosed specific involvement of the petitioner in the entire transaction whereby the petitioner had taken the entire amount of 1003065 USD out of which he had paid ₹1,60,000/- to co-accused Sachin Kumar. They have also placed on record the receipts signed by the petitioner regarding acknowledgment of the payment on different dates and submit that custodial interrogation of the petitioner is required to unearth the entire scam.

5. After hearing the respective submissions and perusing the record, it is evident that the petitioner was working in the complainant Company and was handling the duties of ensuring the timely payments and delivery of the goods at the given destination. The complainant Company

had placed the purchase orders for supply of non-ferrous metal with intermediary company namely Birungi and Company for supply thereof, and paid 1003065 USD, but despite payment, no goods were received by the Company, on inquiry, the petitioner gave evasive reply. During course of investigation, it has come out that the petitioner along-with co-accused Sachin Kumar had got the order placed with intermediary company and the petitioner had retained the amount received from complainant company due to which the material was not supplied and the containers were found to be empty. The allegations qua the petitioner are very serious and require deeper probe for which his custodial interrogation is required.

6. Therefore, considering the facts and circumstances of the present case and the nature and gravity of the offence, no case is made out in favour of the petitioner for grant of anticipatory bail. Accordingly, finding no merit in the present petition, the same is hereby dismissed.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

22.05.2024
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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No