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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.23512 of 2024
Date of decision: 24.07.2024

Santosh Kumar Gaud @ Santosh Kumar Gaur ... Petitioner

Vs.

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Kamal K.Sharma, Advocate,
for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner seeking relief of anticipatory bail in case arising out of FIR No.592 dated 27.12.2022 registered under Sections 420 and 120-B of IPC at Police Station City Barnala, District Barnala, on the basis of a complaint lodged by the complainant Jaipal on 27.12.2022, alleging therein that he was running business of sale of pesticides under the name and style of M/s Madan Lal and Sons and was having a shop at Barnala. The business of this shop is being looked after by his nephew Abhishek Singla. He alleged that his firm had been purchasing pesticides from one M/s

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Sumitomo Chemical India Ltd., Mumbai. The present petitioner who was Territory Manager of the above named company and some more employees of the above named company namely, Kamal Chauhan, Senior Regional Manager, Nagendra Shah Sisodia, Regional Manager and Parshant Kumar Sharma were promoting the sale of the pesticides. They used to remain in contact with the firm of the complainant. He alleged that to promote sale of pesticides of the company, the petitioner and the above named employees of M/s Sumitomo Chemical India Ltd. used to take pesticides from him for sale and the complainant also used to sell pesticides directly to farmers. As per the allegations, whenever pesticides were obtained from the firm of the complainant by the petitioner and other co-accused, they used to receive the same by signing bills. The petitioner had obtained different types of pesticides from the complainant during the period from 24.02.2021 to 16.12.2021 and the bills issued by the firm of the complainant was also received and signed by the petitioner. The co-accused also received pesticides from the firm of the complainant. He alleged that in this manner, pesticides worth Rs.27,51,093/- had been taken by the petitioner and co-accused from his firm but only an amount of Rs.4,42,000/- had been returned and the remaining amount had been usurped by the petitioner and co-accused thereby causing wrongful loss to him with the dishonest intention to deceive him. As such, he made prayer for taking action against the culprits. On his complaint, the aforementioned FIR has been registered.

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Investigation is underway. Apprehending his arrest, the petitioner had moved an application for anticipatory bail which has been dismissed by the Court of learned Sessions Judge, Barnala vide order dated 19.04.2024.

2. It is argued by learned counsel for the petitioner that he was working as BMD Manager with M/s Sumitomo Chemical India Ltd. and was supervising the sales of products of this company. The complainant was a buyer of pesticides from the above named company. His firm had running account with the employer of the petitioner. The petitioner had never received any product from the complainant nor he was in the practice of selling products of the complainant. He had never signed any invoice qua receipt of pesticides/products from the complainant as alleged by him. Therefore, the question of his returning an amount of Rs.27 lacs to the complainant or his firm did not arise. He has been falsely implicated in this case. His custodial interrogation is not required. He has joined investigation. No recovery is to be effected from him. The provisions of Section 420 of IPC are not attracted. The dispute raised by the complainant is of civil nature. No purpose would be served by detaining him in custody. Therefore, it is argued that the petition deserves to be allowed.

3. It is relevant to mention here that vide order dated 10.05.2024 the petitioner was directed to join the investigation. It is submitted by learned State counsel that he has joined investigation on 18.06.2024 but it

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is argued that since the petitioner did not get the recovery of the amount due to be payable by him to the complainant effected, therefore, his custodial interrogation is required for that purpose and also for conducting thorough investigation in the matter. It is also argued that no exceptional circumstance for grant of anticipatory bail has been made out in this case and accordingly, it is urged that the petition does not deserve to be allowed.

4. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record.

5. The petitioner who was admittedly an employee of M/s Sumitomo Chemical India Ltd. along with the co-accused, is alleged to have received pesticides belonging to and sold by his employer company to the complainant from him on the pretext of promoting the sale and selling the same at his own level and is alleged to have deceived the complainant by not giving the amount of the value of the pesticides so received. As per the allegations, he had even signed bills issued by the firm of the complainant qua receipt of the pesticides but did not pay the amount of those bills. No doubt, he has joined investigation in compliance of order dated 10.05.2024. However, only because of that fact, he does not become entitled to be extended benefit of pre arrest bail as a matter of right especially in the circumstance when there are allegations of causing wrongful loss to the tune of huge amount of money

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to the complainant. It is well settled proposition of law that the privilege of pre arrest bail should be granted only in exceptional cases and in sparing and extraordinary circumstances. The judicial discretion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation and other factors to be decided whether it is fit case for grant of anticipatory bail. The grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and, therefore, the Court must be circumspect while exercising such power for grant of anticipatory bail and should not grant such relief in routine basis.

6. In the instant case, the allegations against the petitioner are serious in nature. As per the complainant, the petitioner signed documents in token of delivery of bags of pesticides to him by the firm of the complainant. It has also been submitted that during the course of investigation, the complainant has produced certain Whatsapp Chats and other materials showing that the petitioner and co-accused have admitted their liability of pending dues from them. In such circumstances, in my considered opinion, no extraordinary and sparing circumstance warranting exercise of powers under Section 438 of Cr.P.C. has been made out in favour of the petitioner and his custodial interrogation is required for thorough investigation of the matter by the police and for eliciting the truth about the manner in which he committed the subject offences. Therefore, finding no justified ground to allow the petition, the

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same is dismissed.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

24.07.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No