

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-27600-2024 (O&M)

Decided on 01.07.2024

Virender Kumar

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Nakul Sharma, Advocate for the petitioner

Sandeep Moudgil, J.

(1). This is a petition under Section 439 CrPC filed by the petitioner seeking regular bail in case FIR No.309 dated 26.08.2023 registered under Sections 406/420 IPC (Sections 467/468/471 IPC added later on) registered at Police Station Sadar Pehowa, District Kurukshetra (Annexure P1).

(2). Brief facts, as culminating in the FIR which was lodged at the instance of Krishan Kumar, is reproduced hereunder:-

“To, The SHO Police Station Pehowa Subject: Complaint against Virender Kumar son of Birbhan, resident of Village Shishagran Khedi, Tehsil Pehowa, District Kurukshetra, Mobile no. 93064-29026, 87082-04180. Sir, I do hereby requested that, I Krishan Kumar, s/o Deshraj, resident of Village Ishaq, Tehsil Pehowa, District Kurukshetra. 1. That I am the owner of one tractor marka "Sonalika" bearing Registration No. HR-78A-7530, Ch. No. GZCDE416315S3, En. No. 3102IL43D414322F5, Model 2014 whose registration is in my name. 2. That on 26/02/2023, the above accused Virender had taken on rent one of my carts/trolley which had roof, bead and canopy, for one year at the rate of Rs. 16000/- per month and further, on 04/04/2023 the above mentioned tractor was taken on rent for one year at the rate of Rs. 17000/- per month and the entries of which were recorded in the

register and there upon accused had also did his signature. 3. That, now I have come to know that the accused has sold my tractor to someone else and now for many days when I go to the accused to inquire about my tractor, he keeps linger on the matter on one pretext to another by saying that the tractor has just gone out of station and will come today, tomorrow etc. But till now the accused has not told me anything about my tractor nor has shown me the cart/trolley and now I have also come to know that the accused has sold my tractor to Mahindra agency and now he is not giving back my tractor and he even used filthy language and threaten me to face dire consequences, if I complain, and further states that, I am not afraid of anyone, no one can do anything to me because I have very acquaintance among the police party and if you come to me again regarding tractor then, I will kill you. 4. That I am afraid that the accused may do some untoward incident with my tractor and implicate me in a false and frivolous case or may steal some unknown goods from my tractor. It may also cause harm or cause some other wrong incident. 5. That during the period, if any accident to life or property, challan, loan, tax, or any kind of bad deed occurs due to my tractor trolley. then the said accused will be completely responsible for it. Therefore, I request you that strict legal action may kindly be taken against that accused and my tractor-trolley kindly brought back to me from the accused and my life and property should be protected. Sir, you will be very kind. Date: 06/07/2023 Sd/- KRISHAN KUMAR, Krishan kumar son of Deshraj, resident of Village Ishaak, Tehsil Pehowa, District Kurukshetra... ”

(3). Learned counsel for the petitioner contends that there is no case of forgery and as such, Sections 467/468/471 IPC have been wrongly added by the police inasmuch as it is not the case of the prosecution that the petitioner forged signatures of the complainant on the affidavit for selling the tractor and

in fact, the original affidavit dated 24.05.2023 in question has not been produced by the prosecution. It is further averred that since the arrest of the petitioner on 09.09.2023, even after a lapse of 8 months, the FSL or handing expert report has not been procured by the prosecution.

(4). On the other hand, learned State counsel has produced custody certificate dated 29.06.2024 which is taken on record. In terms of the said custody certificate, the petitioner has undergone only 9 months 17 days of custody and beside the present case, two more criminal cases are pending against the petitioner. He contends that since the allegations made the petitioner are of duping the complainant by fraudulently selling his tractor and from those money, he purchased another tractor of Mahindra Arjun 555, by preparing forged documents/affidavit and one another case of similar nature of the year 2023 is also pending against him, therefore, the prayer for release of the petitioner deserves to be rejected.

(5). Heard learned counsel for the parties.

(6). It is the case of the prosecution that the petitioner defrauded the complainant by selling his tractor-trolley make Sonalika 745 after preparing forged affidavit and other documents, which he initially hired from the complainant @ Rs.16,000/- p.m. The sale amount of Rs.2,40,000/- was allegedly used by the petitioner in purchasing new tractor of make Mahindra Arjun 555. It is also the case of the prosecution that the petitioner sold the tractor of the complainant by forging an affidavit wherein it has been reflected that the complainant Krishan Kumar had sold the tractor to the petitioner.

(7). There is nothing on record produced by the petitioner either before this Court or efore the trial court which may even minutely suggest contrary to

the investigation carried out by the prosecution which are clear, distinctive and indicative of the involvement of the petitioner moreso when the petitioner has been found involved in another case of similar nature registered on 10.09.2023 wherein the modus operandi adopted by the petitioner was identical to the allegations raised by the complainant herein and as such, this Court, *prima facie*, cannot be oblivious of the fact as to his habitual involvement in such like crime of duping and defrauding the innocent people.

(8). Therefore, at this stage, this Court does not find any merit in the submissions raised by his learned counsel and as such, it is not a fit case to grant the concession of regular bail to the petitioner.

(9). Dismissed.

01.07.2024

V.Vishal

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No
Yes/No