



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

106

CRM-M No.30742 of 2024
Date of decision: 28.06.2024

Surendra Singh ... Petitioner

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Jai Vir Yadav, Senior Advocate with
Ms. Parul, Advocate,
for the petitioner.

Mr. Arjun Lakhanpal, Addl. AG, Haryana,
for the respondent-State.

Mr. A.R. Takkar, Advocate, (through Video Conferencing),
Mr. Aman Arora, Advocate and
Mr. Manan Takkar, Advocate,
for the complainant.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 438 of Cr.P.C. seeking pre arrest bail in case arising out of FIR No.276 dated 19.09.2023 registered under Sections 120-B, 34, 419 and 420 of IPC at Police Station Sector 9A, Gurugram.
2. Brief facts of the case relevant for the purpose of disposal of



the present petition are that the aforementioned FIR was registered on the basis of complaint lodged by the complainant Prince Kumar alleging therein that previously, he used to work in the factory of one Sandeep Yadav in Gurugram. Due to misbehaviour of the said Sandeep Yadav, the complainant left his job. He subsequently established a factory named as Hitech Fastner at Village Basai, District Gurugram for manufacturing of screws and nut bolts. On 22.07.2022, he received a call from mobile No.7042332745 and the caller while introducing him as Rakesh Srivastava Manager of one Hybrid Materials, told him that he was interested in purchasing the production material of the complainant in bulk. He called the complainant to meet the co-accused Parkh Kapoor at a place in Gurugram who represented himself as owner of M/s Hybrid Material and placed order for screws and nut bolts with assurance to make payment within 30-45 days. The complainant while believing the abovesaid Parkh Kapoor delivered material worth Rs.35,87,000/- to M/s Hybrid Materials. No payment was made to him and subsequently he came to know that the material so supplied by him was infact delivered in the factories of the accused Sandeep Yadav. The further probe made by him revealed that the person who had represented him as Rakesh Srivastava was none other than the petitioner who was a friend of accused Sandeep Yadav and in connivance with each other and in order to cause loss to the complainant, they had conspired to place order for purchase of his material without intent to make any payment and to



commit fraud upon the complainant. The complainant alleged that he had utilized his entire earnings for fulfilling the order so placed and was duped at the hands of the petitioner and the co-accused and, therefore, prayed for taking action. After registration of FIR, investigation proceedings have been initiated and are underway. The petitioner moved application for grant of pre arrest bail before the Court of learned Additional Sessions Judge, Gurugram which had been dismissed vide order dated 20.06.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is running business under the name and style of M/s Yadav Infra Polymers Private Limited and has no connection with Hybrid Materials to whom the complainant supplied nuts and bolts. The complainant has already filed a complaint before the Micro Small and Medium Enterprise (MSME), Panchkula for recovery of money against Hybrid Materials. The co-accused Parkh Kapoor has been extended benefit of interim bail. There is no material on record to show that the petitioner has any hand in placing order of nuts and bolts by M/s Hybrid Materials or to cause loss to the complainant or to cheat him, his custodial interrogation is not required as no recovery is to be effected from him. He is even otherwise ready to join the investigation as and when required. No purpose would be served by detaining him in custody. Hence, it is argued that the petition deserves to be allowed.

4. Per contra, learned State counsel who has advance notice of the

2024.PHHC:080745



petition, assisted by learned counsel for the complainant who has filed Power of Attorney today itself, has argued that the investigation is underway and it has been revealed that the petitioner is not only owner of Yadav Infra Polymers Private Limited but also of Hybrid Materials Private Limited which is having the same address i.e. of Hybrid Materials i.e. the firm which was represented to be owned by co-accused Parkh Kapoor but as per record is shown to be owned by one Jatin Gautam. It is argued that the property bearing plot No.385 wherein the offices/business of Hybrid Materials/Yadav Infra Polymers Private Limited and Hybrid Materials Private Limited is existing are on the same plot which is owned by none other than the cousin brother of the petitioner. Learned State counsel has submitted that the investigation so far conducted by the investigating agency has also revealed that the person who introduced himself as Rakesh Srivastava, Manager of M/s Hybrid Material and had allured the complainant to supply his material to M/s Hybrid Materials was none other than the petitioner himself and he had made call from mobile No.7042332745 by using a phone the IMEI number of which was in the name of the petitioner himself. It is submitted that a deep rooted conspiracy had been hatched by the petitioner along with the co-accused Sandeep Yadav and other persons to cheat the complainant and cause wrongful loss to him as well as by impersonating himself. It is submitted that the custodial interrogation of the petitioner is required for thorough investigation in the matter by the police. It is further argued that even



otherwise, no extraordinary and sparing circumstance has been made out warranting exercise of powers under Section 438 of Cr.P.C., by this Court. It is, therefore, urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner and learned State counsel assisted by learned counsel for the complainant and have gone through the record and on going through the same, I am of the considered opinion that no ground for extending benefit of pre arrest bail is made out in favour of the petitioner at this stage. It has come on record that the complainant has been duped of a sum of Rs.35,87,000/-. The investigation which has been conducted so far by the investigating agency points out that the petitioner by impersonating himself as one Mr. Rakesh Srivastva had induced the complainant to enter into business transaction with Hybrid Materials and in connivance with him and the co-accused, the co-accused Parkh Kapoor who had represented himself as owner of Hybrid Materials and had made the complainant to supply goods worth Rs.35,87,000/- to M/s Hybrid Material which are alleged to have been later on taken by the company of Sandeep Yadav. The powers under Section 438 of Cr.P.C. are not to be exercised in a routine manner but the well settled proposition of law is that they are to be exercised in extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order



under Section 438 of Cr.P.C. The Court has also to see that an order of anticipatory bail should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. Keeping in view the nature of the subject offence and the role attributed to the petitioner in commission of the same, the quantum of sentence which the conviction may entail and further the fact that no exceptional circumstance entitling the petitioner to seek concession of pre arrest bail has been made out, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

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

28.06.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No