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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-37865-2024 (O&M)
Date of decision: 29.08.2024

Sunil Kumar **...Petitioner**

Versus

State of Haryana **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Dr. Rau P. S. Girwar, Advocate,
Ms. Archana Puhanian, Advocate and
Mr. K. T. Rau, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. *(Oral)*

1. Through the instant petition, filed under Section 482 of Bhartiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS'), the petitioner seeks anticipatory bail in FIR No. 378, dated 02.05.2018, registered under Sections 120-B, 420, 467, 468 and 471 of IPC at Police Station Sirsa City, District Sirsa.

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 a written complaint filed by complainant Vikas Dehdu on 02.05.2018 alleging therein that co-accused Ravinder Kumar, during the months of July/August, 2017, had opened a fictitious firm in the name of the complainant under the name and style of Vikas Cotton & Oil Mill and then got opened a saving bank account in Equitas Bank, Sirsa and also got issued a cheque book in his name

and took his signatures on all the cheques as well as on certain other documents. He had assured him of good returns from the business. However, later on, the complainant came to know that aforesaid Ravinder Kumar, in connivance with other co-accused, namely, Ramesh Kumar, Mahesh Bansal, petitioner Sunil Kumar and Parmod Bansal had trapped the complainant and several other persons by creating fake firms and had cheated him.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. In fact, co-accused Ramesh Arora is a relative of the petitioner. There are no specific allegations against the petitioner and the complainant has only stated in his complaint, which formed basis for registration of the present FIR, that the alleged network of fraudsters included nephew of co-accused Ramesh Kumar as well, who is the present petitioner. It is further submitted that the petitioner and co-accused Ramesh Arora are having personal family discord and since the petitioner had filed a complaint dated 03.03.2023 (Annexure P-3) against Ramesh Arora before the DGP, Haryana, he had falsely got him implicated in this case. The petitioner was carrying out his own business and had no concern with any of the co-accused. Presently, he is not maintaining good health and is unable to do any work. The trial Court, while dismissing the anticipatory bail application of the petitioner, has erroneously mentioned Value Added Tax, 2003, whereas the alleged offence is with regard to Central Good Services Tax Act, 2017. The investigation has since been completed and challan has been presented before the Court. Co-accused Mahesh Kumar and Ramesh Kumar have been granted

concession of bail by the Court of learned Additional Sessions Judge, Sirsa, vide orders dated 25.10.2023 and 31.01.2024 (Annexures P-4 and P-5), respectively . Even co-accused Parmod Kumar has been granted concession of anticipatory bail by this Court, vide order dated 10.04.2024 passed in CRM-M-6604-2024. Though the petitioner is involved in another FIR bearing No. 45 dated 06.03.2019, under Sections 420, 406, 467, 468, 471, 201 ad 120-B of IPC, registered at Police Station Adampur, District Hisar, however, he has filed a petition before this Court seeking quashing of the said FIR, wherein notice of motion has been issued and the petition is pending adjudication. Hence, it is argued that the petitioner also deserves to be granted concession of anticipatory bail as no useful purpose would be served by detaining him into custody.

4. *Per contra*, learned State counsel, in terms of the reply, has opposed the prayer of the petitioner by arguing that the petitioner along with co-accused was indulged in creating fake firms and cheating innocent persons. During the course of investigation, the statement of the complainant has been recorded under Section 164 of Cr.P.C., wherein he has specifically stated that the petitioner in collusion with other accused had cheated him by creating fake firm and opening a saving bank account in his name. The accused persons used to prepare false bills without showing the delivery of goods and used to transact huge amount in the banks and in this way, they have caused loss to the tune of Rs. 40,56,565/- to the State Exchequer. The custodial interrogation of the petitioner is required for further investigation in the matter. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

6. As per the allegations, the petitioner along with co-accused is alleged to have cheated the complainant by creating a fake firm and opening a saving bank account in his name. As per reply filed by the respondent-State, the accused persons have also caused loss to the State Exchequer. However, a perusal of the contents of the FIR shows that no specific attribution has been made to the petitioner, except of mentioning that the alleged network of fraudsters included the petitioner also. Admittedly, investigation qua co-accused Ravinder Kumar and Ramesh Kumar has been completed and challan/supplementary challan has been presented against them. Co-accused Mahesh Kumar, Ramesh Kumar and Parmod Kumar have been granted concession of regular/anticipatory bail as mentioned above. The case is based on documentary evidence. No recovery is to be effected from the petitioner. As such his custodial interrogation is not required. It is not the allegation against him that he had made any inducement to the complainant while a firm in the name of latter had been opened by co-accused Ravinder Kumar. The only apprehension expressed by learned State counsel is that in case of being granted concession of anticipatory bail, the petitioner may not cooperate in the investigation. Keeping in view the facts and circumstances of the case, I am of the considered opinion that no useful purpose would be served by detaining the petitioner into custody.

7. Accordingly, the petition is allowed. The petitioner is granted concession of anticipatory bail, subject to the conditions envisaged under

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Section 482(2) of BNSS. He is directed to appear before the Investigating Officer within a period of 10 days from today and join the investigation and on doing so, the Investigating Officer/Arresting Officer shall release him on bail, subject to his furnishing personal/surety bonds to his/her satisfaction. This order shall also be subject to the following conditions:-

(i) The appellant shall cooperate with the investigation and shall appear before the Investigating Officer as and when required.

(ii) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any Police Officer.

(iii) He shall not commit any similar offence while on bail.

8. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with law.

9. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

29.08.2024 **(MANISHA BATRA)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*