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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.39059 of 2024
Date of decision: 27.08.2024

Pushpender Garg ... Petitioner

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Ms. Pooja Jaglan, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner seeking anticipatory bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
252	12.07.2024	Tehsil Camp Panipat, District Panipat	63 and 65 of Copyright Act, 1957 & 318 (4) of the Bharatiya Nyaya Sanhita (BNS), 2023

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR had been registered

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on the basis of a written complaint submitted by the complainant Subhash Sharma posted as Operation Manager of Consultant India Private Limited Company, Delhi alleging therein that his company had been authorized by castrol company for the purpose of conducting market surveys and initiating action against the persons who used to sell spurious oil in the name of the castrol company. He alleged that on conducting survey in City Panipat, he found that the accused Umesh Garg and Shrikant who are real brothers, had been engaged in the business of manufacturing/duplicate oil of motorcycles and by selling the same by showing the same as the oil produced by castrol company and thereby they were making huge profits of money by causing financial loss to castrol oil company and tarnishing its brand image. It was also informed that the castrol company had neither authorized them for manufacturing oil nor for selling the same in the market. He also informed that both the above named accused could be apprehended red handed if raid was conducted in the godown wherein they were storing the spurious oil.

3. After registration of FIR, investigation proceedings were initiated. On 12.07.2024, a police party reached at the informed place along with the complainant Subhash Sharma. Co-accused Umesh Garg and Shrikant who were present there were apprehended. On checking of the godown, 632 bottles of duplicate castrol oil were recovered from the premises. Only one box of castrol company and the remaining bottles

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were containing duplicate oil. The accused failed to produce any licence or permit for the same. The bottles were taken into custody after being sealed. The co-accused suffered disclosure statements during the course of investigation and the accused Umesh Garg recovered an amount of Rs.1.72 lakhs in pursuance of his disclosure statement. Both the accused also disclosed that the petitioner was the proprietor of the firm which was being run by them. They also took the name of accused Sunil Kumar who was arrested. The petitioner was also nominated as an accused. Apprehending his arrest, he moved application for grant of pre arrest bail before the learned Additional Sessions Judge, Panipat which was dismissed vide order dated 01.08.2024.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He was not named in the FIR. He is only engaged in the business of selling fruits and clothing on a cart and has nothing to do with the business of sale of spurious castrol oil. He has been wrongly shown as proprietor of the said business/premises. His custodial interrogation is not required. He is ready to join the investigation. No recovery is to be effected from him. Therefore, it is argued that the petition deserves to be allowed.

5. Status report has been filed by the respondent-State. It is submitted therein and learned State counsel has argued that the petitioner is real brother of the co-accused Umesh Garg and Shrikant who have

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already been arrested. Accused Umesh Garg suffered disclosure statement about involvement of the present petitioner in the subject crime and also that he was having share of 10% in the profits of the business of sale and purchase of oil. As per the allegations, the petitioner in connivance with the co-accused had been purchasing local engine oil of motorcycles from Divyal company and Lube Chen company and then sold it on higher prices by putting counterfeit mark of castrol oil on it and had been earning huge profits. Recovery of the money earned by the petitioner in an illegal manner is to be effected. The allegations against the petitioner are serious in nature. His custodial interrogation is required for conducting thorough investigation in the matter. Hence, it is urged that the petition does not deserve to be allowed.

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

7. As per the allegations, the co-accused were involved in the business of manufacturing spurious motor oil in the name of castrol company without having any authorization from the said company and thereby caused wrongful loss to the castrol company and had wrongful gain for themselves. As per the allegations, the petitioner is proprietor of M/s DD Overseas firm and he along with his brothers is engaged in purchasing local engine oils of motorbikes and then by putting

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counterfeit mark of castrol oil, selling the same on high prices thereby earning huge profit. As per the disclosure statement of co-accused, he has been fetching 10% profits from the said business. The allegations against the petitioner are grave in nature. For the purpose of effecting recovery of money allegedly earned by way of profits by the petitioner as well as for conducting thorough investigation in the matter, the custodial interrogation of the petitioner is must. Moreover, it is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional 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, possibility of applicant fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. 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. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present

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case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

27.08.2024

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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No