IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

105 CRM-M-41284-2024
DATE OF DECISION: 27.08.2024

JAY PARKASH KUMAR ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. R.K. Agnihotri, Advocate for the petitioner(s).

Mr. Rajiv Verma, DAG, Punjab.

Mr. Yaseen Sethi, Advocate for the complainant.

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SANDEEP MOUDGIL, J (ORAL)

1. **Relief Sought**

This petition under Section 482 Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed to grant anticipatory bail to the petitioner in FIR No. 168 dated 12.08.2023 under sections 406/420/120-B of Indian Penal Code 1860, registered at P.S. Division No.6, Ludhiana, District Ludhiana.

2. Prosecution story set up in the present case as per the version in the FIR read as under :-

'Application PGD No. 126758, Complaint No.123165 dated 07.03.2023 received from Rajeev Soi partner of M/s S.P Agency, 943-A, Nirankari Street No.7, Millerganj Ludhiana against Kumar Anand and Jay Parkash for registration of FIR through post from the Commissioner of Police, Ludhiana. Copy of complaint is enclosed. "To, Commissioner of Police,

Ludhiana. Application for registration of FIR against 1. M/S INSTADAY FOODS AND BEVERAGES PVT. LTD. MOB. No. +912249722378, +919112103011 EMAIL ID: +917775892519, accounts@instaday.in 2. Kumar Anand, MOB. NO. +917775892519, +919869834472 EMAIL +919869834472, ID:anand@instaday.in 3. Jay Parkash, MOB.+917775892519 No. +919869834472, EMAIL ID: jayprakash@instadays.com AUTHORIZED SIGNATORIES OF INSTADAY FOODS AND BEVERAGES PVT. LTD. HAVING ITS OFFICE AT 220, NIGOS BUILDING, CAMA INDUSTRIAL ESTATE, GOREGAON EAST MUMBAI 400063. U/S 406, 420, READ WITH SECTION 506 IPC. sir, The Applicant respectfully states as under: 1. That the applicant M/s S.P> Agencies is a partnership firm comprising of its partners namely Sh. Rajeev Soi and Sh. Sanchit Soi, which is being run at 943-A, Nirankari street No.7, Millerganj, Ludhiana. 2. That a company under the name and style of M/s Instaday Foods and Beverages PVT. Ltd. is a private limited company and is running its business at the aforesaid address. 3. That the aforesaid company is being represented by Kumar Anand and Jay Prakash and they are looking after the day to day business of the company. 4. That in the month of July 2022, Kumar Anand and Jay Prakash approached to the applicant and allured that their company is dealing with fruit base ready to serve fruit beverages, instant beverages, Non- Alcoholic beverages, OTC products and other allied products from their company and 5. That they further allured that if C&F agreement would be entered with their company, we will get a profit and the business could flourish more. 6. That as per the allurement, given by the aforesaid persons, the applicant has agreed to entered into C&F agreement. In this regard the accused further represented to the applicant to entrust an amount of Rs.20,00,000/- to them. 7. That as per their asking the applicant entrusted an amount of Rs. 20,00,000/- to the accused company through RTGS on dated 22.06.2022 bearing Transaction No. PRIL CHQ: 885651, *CLBLR12022175000000336. The aforesaid amount was duly credit in the account of the accused company and the aforesaid amount was entrusted to the aforesaid accused with clear understanding that the company shall make available the goods, supply and the goods would be routed through their employees and non-saleable goods would be taken by the accused company and that all the billings would be through bill directly in the name of the customers and the customers is to pay the amount of the bill directly to the company. The applicant has deposited the aforesaid amount of Rs.20,00,000/-was deposited with the aforesaid accused company through its officers with clear understanding that as per the C&F agreement dated 01.07.2022 we are entitled to the benefit of the order procured by us from the customers. 8. That the intention of the accused since the day of the entering into agreement is to cheat the applicant to utilize the security amount from the innocent persons. 9. That the applicant is also a partner of a firm namely Aruna Agencies which is being run in shop being part of the property No. B-VII-308, Pindi Street Ludhiana and in the aforesaid firm the accused company has also taken benefit of the entrusted amount. 10. That the accused, has misappropriate the aforesaid security amount as well as other benefits amounting to approximately more than Rs.30 Lacs, and the aforesaid amount has been mis-utilized by the accused company and the officials whose\ name has been given above for their personnel use. 11. That the aforesaid company, is neither paying the aforesaid amount, or attending the calls nor retaining any local employees to whom the applicant could make any complaint in this regard. 12. That it came to the notice of the applicant that huge amount of other customer have also seen misappropriate by them. Whenever we called them, they are not attending the call and now they switched off their mobile. Earlier the aforesaid officials of the company have been making false promise to the applicant that they are shortly* *making the payment of more than Rs.30 Lacs which is due towards them. 13. That in case the applicant is aware about the conduct of the aforesaid accused persons, the applicant would not have entrusted them such a huge amount to them nor the applicant would have entered into any such C&F agreement dated 01.07.2022. 14. That the intention of the accused to defraud the applicant is since the day of the agreement to cheat the applicant and the applicant had only entrusted the aforesaid huge amount only at the allurement of the accused. 15. That the accused are also advancing threats to the applicant that in case the applicant had asked them to pay the amount, the will eliminate the applicant and his family members as I am not enjoying good health from the last numbers of years. It is, therefore, requested to your goodself to look into the matter and to get the matter investigated from Crime Branch-II, Ludhiana and FIR may kindly be registered against the aforesaid accused company as well as against the officials of the company Kumar Anand and Jay Prakash under the relevant, provision of law. Applicant: Rajeev Soi, Partner of M/s SP Agencies, 943-A, Nirankari Street No.7, Millerganj Ludhiana. Mob No. 93169- 41588 SD/- Rajeev Soi (In english).'*

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case and no specific role has been attributed to him. He submits that the petitioner was not associated with Instaday Food and Beverages Pvt. Ltd and the said company was run by his brother. It is his further contention that nothing is to be recovered from the petitioner and there is no incriminating material against the petitioner, therefore, prays for grant of anticipatory bail to the petitioner.

On behalf of the State

Learned State Counsel appearing on advance notice on instructions from Investigating Officer opposes the prayer for grant of anticipatory bail on the grounds that the allegations against the petitioner are serious in nature and he does not deserve the concession of anticipatory bail but is not in a position to controvert the submissions made by counsel for the petitioner.

On behalf of the Complainant

Learned counsel for the complainant vehemently opposes the prayer and submits that the petitioner and his brother have defrauded the complainant of a huge amount of money, therefore, prays for dismissal of the petition.

4. **Analysis**

Be that as it may, after giving a thoughtful consideration to the submissions made by counsel for the parties and the fact that the State Counsel and counsel for the complainant at this stage, are not able to put forth any incriminating material to show and establish any intent to deceit, this Court finds no reason to deny the petitioner the concession of anticipatory bail wherein the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

5. **Decision**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is directed to be released on anticipatory bail subject to his joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

> *'When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-*
>
> *(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
>
> *(ii) a condition that the person 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 from disclosing such facts to the Court or to any police officer;*
>
> *(iii) a condition that the person shall not leave India without the previous permission of the Court;*
>
> *(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'*

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stands cancelled.

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

27.08.2024
anuradha/poonam negi

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*