

Date of Decision: 16.09.2024



sold in the market by being represented as genuine ones. He was doing all this under the garb of running an industry under the name and style of M/s Payal Bakery and Namkeen Industry. He also recorded that Suresh @ Gogi had been doing all this in complicity with Adarsh Arora, Neeraj and Dinesh. On the basis of his statement, a team consisting of police officials, Drug and Control Officer and the complainant was prepared, which reached at the premises of Payal Namkeen Factory on 30.05.2021. Some workers were found working in the same. On checking, twenty-two small drums and seven big drums containing a white colored chemical, refill machine, belt machines, laser printing machine, one lamination machine, 850 empty cardboard boxes, several boxes containing empty bottles with rappers/without rappers and the rappers/ labels of the products of the company of the complainant, were found kept therein. A Tata Yodha make vehicle bearing registration No. HR37E-5695 containing 40 boxes of fake cosmetic products of the product which was sold by the Hindustan Uniliver Company under name of fair & lovely cream were found kept in the same. All these were fake creams. That apart, fake Glucose-D packets showing manufacturing of Dabur company were also found there. The same were taken into custody. FIR was registered. Investigation proceedings were initiated and the same are underway. Apprehending his arrest, the petitioner had moved an application for grant of pre-arrest bail which had been dismissed by the Court of learned Additional Sessions Judge, Ambala vide order dated 28.08.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case only on the basis of statement of the



complainant that Adarsh Arora, Neeraj and Dinesh could be involved with the main accused Suresh @ Gogi in commission of the subject offence. He was not specifically named in the FIR and has been implicated on the allegations that he used to regularly talk with the co-accused Suresh @ Gogi on his mobile phone. He has been made a scapegoat merely because of the fact that he is known by the name 'Neeraj'. His residential premises are being illegally raided by the police officials. He is neither the registered owner of these premises from where alleged recovery has been effected nor documentary evidence has been collected by the investigating agency to connect him with this case. He is a respectable person and permanent abode. He is ready to join the investigation. Neither any recovery is to be effected from him nor his custodial interrogation is required. Therefore, it is urged that he deserves to be extended benefit of pre-arrest bail.

4. Status report has been filed by the respondent-State. It is argued by learned State counsel that there are serious and specific allegations against the petitioner as he in connivance with the co-accused manufactured counterfeited products in the name of Hindustan Uniliver Ltd. and the same were recovered from the premises belonging to his brother and himself and he is a partner with his brother. His custodial interrogation is required to unearth the nexus between the co-accused and himself. Even otherwise, no extraordinary circumstance warranting exercise of powers of grant of anticipatory bail in favour of the petitioner has been made out. Therefore, it is urged that the petition does not deserve to be allowed.



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

6. No doubt, in view of the Section 13 of the 1957 Act, the provisions of this Act are applicable to original literary work, dramatics, musical, artistic, cinematography and sound recording work and hence, cannot be stated to be applicable in cases relating to manufacturing of products used for cosmetic purposes like shampoo, face creams etc. As such, it is a question of debate as to whether, a case for commission of offences under Section 63 and 65 of the 1957 Act is made out or not? So far as the provisions of trade and merchandise marks Act are concerned, the relevant offences under those provisions are non-cognizable in nature. The petitioner along with the co-accused is alleged to have been booked for commission of offences punishable under Sections 420, 468, 471, 120-B as well as on the allegation of not only manufacturing counterfeit products in the name of M/s Hindustan Uniliver Ltd but also for forging the labels/rappers of this company meant for packing purposes. For conducting proper investigation in the matter, the custodial interrogation of the petitioner is required. It is well proposition of law that the powers for grant of anticipatory bail are to be exercised in exceptional circumstances while keeping in view the nature and gravity of the accusation, possibility of applicants fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail. As such, grant of bail to some extent interferes in the sphere of investigation of an offence. The custodial interrogation is more elicitation oriented rather than questioning an accused who is well ensconced with a



favourable order. In the instant case, no exceptional circumstances warranting and exercising of power for grant of anticipatory bail are existing. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

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

8. Since the main petition has been dismissed, pending application if any is rendered infructuous.

16.09.2024

Deepak Patwal

(MANISHA BATRA)
JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No