**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

**102** **CRM-M-49878-2024**
**Date of decision: 4th October, 2024**

Ajay Kukreja

...Petitioner

Versus

State of Punjab and another

...Respondents

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Yogesh Goel, Advocate for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

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**MANISHA BATRA, J (ORAL):-**

The instant petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking anticipatory bail in case arising out of FIR No.104 dated 27.08.2024 registered under Sections 406 and 420 of IPC, 1860 at Police Station Sarabha Nagar, District Ludhiana.

2. As per the prosecution case, the complainant Kishore Kumar Saini owner of M/s Kishore international submitted a written complaint alleging therein that his firm was engaged in the business of acting as forwarding agent for import and export of consignment and custom clearing, as well as sorting, staging, examination, opening, repacking, cartage loading, unloading of international consignment etc. The petitioner is proprietor of M/s Shubham Trading Corporation engaged in the business of indent of

machinery. The firm of the petitioner had entered into business transaction with the firm of the complainant in the year 2019. Transactions took place between them till the year 2021-2022. The petitioner had approached the complainant for grant of loan to purchase machinery to start some new business. The complainant had lent an amount of Rs. 60,00,000/- to the petitioner for purchase of machinery and the petitioner had requested the complainant to adjust the said amount in the account of his firm. In order to adjust the said amount, the petitioner had sold eight machines claiming them to be in working condition. However, those machines were found to be defective and in non-working condition. The complainant also came to know that the petitioner had shown their value to be at highly exaggerated prices. It was also revealed to him that such like new machines were available at much lesser price. The petitioner also issued e-bills showing the value of the machines to be Rs. 90,00,000/-. He did not pay back the loan amount nor the value for the services rendered by the complainant had been paid to him and by delivering non-operative defective machines and by forging e-bills, the petitioner duped the complainant for a huge amount of Rs. 1,57,79,100/-. The complainant had filed a civil suit for recovery of the said amount which was pending. After registration of FIR, investigation proceedings are being initiated and are underway. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Additional Sessions Judge, Ludhiana which was dismissed vide order dated 23.09.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in

this case. A civil suit dispute has been given colour of a criminal case. The ingredients for commission of offences under Sections 406 and 420 of IPC have not been at all made out as against the petitioner. A totally false story has been concocted by the respondent No.2-complainant. Neither any defective machine has been supplied by him to the complainant nor any forged bills have been generated. The petitioner had supplied eight machines to the complainant. The petitioner supplied fifteen machines as per invoices, after paying GST-returns and by showing sales of these machines to respondent No.2-complainant. No inflated bills have been raised. He is ready to join the investigation. His custodial interrogation is not required. Therefore, it is urged that the petition deserves to be allowed.

4. Notice of motion.

5. Learned State counsel and counsel for respondent No.2 are present as they have advance notice of the petition. It is argued by them that the allegations against the petitioner are serious in nature, as he damaged the entire business of the complainant by duping him of huge amount of money. Before registration of FIR, inquiry was conducted into the matter and it was revealed that the petitioner has defrauded and cheated the complainant to cause wrongful loss to him and to gain undue benefit for himself by selling old machines by projecting them as new machines and by charging money at much inflated rates than the actual cost of those machines. His custodial interrogation is required for eliciting information as to the truth of the matter. No extra ordinary or sparing circumstance has even otherwise been made out for the purpose of extending benefit of bail to the petitioner. Therefore, it is

urged that the petition does not deserve to be allowed.

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

7. The petitioner is alleged to have cheated the complainant by selling some machines by representing that those were new machines and by charging exaggerated amount of money which was much more than the actual value of those machines. The said machines are also alleged to have been found defective. The petitioner is also alleged to have issued false bills for his wrongful gain. Undisputedly, civil litigation is pending as the complainant has filed a suit for recovery of money as against the petitioner and his firm. However, due to that reason alone, it cannot be stated that the ingredients for commission of under Section 420 of IPC are not attracted since as per the allegations *prima facie* a case for introducing the complainant to purchase defective machines at inflated rates on the behest of the petitioner has been made out. It is well settled proposition of law that benefit of pre-arrest bail should not be granted in a routine manner and such concession should be granted in extra ordinary and exceptional circumstances which are not made out from the allegations as levelled against the petitioner. Moreso, custodial interrogation of the petitioner is required for conducting thorough investigation in the matter. 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 authorities which have been cited by learned counsel for the petitioner are with regard to the quashing of FIRs and not with regard to the bail petitions

and are hence inapplicable. Keeping in view the nature of the allegations as levelled against the petitioner, as per the discussion made above, but without meaning to make any comment on the merits of the case, the petition is dismissed.

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

**[MANISHA BATRA]**
**JUDGE**

**4th October, 2024**
*Parveen Sharma*

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