

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-51643-2024
Decided on 19.10.2024

Parshant Singh ... Petitioner

VS.

State of Punjab ... Respondent

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Arjun Veer Sharma, Advocate for the petitioner

Mr. Jaspal Singh Guru, AAG Punjab

Mr. Ankush Singla, Advocate for the complainant

Sandeep Moudgil, J.

(1). This order shall dispose of CRM-M-51643 & 51644 -2024 as both the petitioners herein are seeking anticipatory bail in the same FIR. For the purpose of order, CRM-M-51643-2024 is treated as lead case.

(2). This petition under Sections 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) has been filed by the petitioner seeking anticipatory bail in case FIR No.103 dated 05.09.2024 (Annexure P1) under Sections 420/120-B IPC registered at Police Station Maur, District Bathinda.

Facts

(3). Facts as culminating in the FIR is reproduced as under:-

“To The Senior Superintendent of Police, Bathinda Sub: Application for registration of FIR against Parshant son of Rishi Raj (Mobile No 98997-61429) and Rishi Raj (Mobile No. 97800- 10280), owners/Authorized Persons of Mis Shri Banke Bihari Foods, Bulandshah and Ravinder Rana Mobile No.98185-37710, for cheating the applicant and for committed fraud Rs. 14,00,000/- with the applicant Sir, It is respectfully submitted as under: 1. That the applicant

is Director of M/s Bansal Milk Chilling Centre Pvt. Ltd., Maur Mandi and is doing business of manufacturing of Milk Products including Desi Ghee, Milk Powder etc. and Tajinder Kumar Bansal has been authorized to file the present complaint.2. That above named persons Parshat son of Rishi Raj and Rishi Raj came to the applicant at his office situated at Maur Mandi on the pretext that they want to purchase Milk Powder from the applicant company and they have heard from Ravinder Rana Salesman of the applicant company that Milk Powder manufactured by the applicant company is of best quality 3. That intention of both Parshant and Rishi Raj from the very beginning was to cheat the applicant and to play fraud with the applicant and in furtherance of their common intention to cheat the applicant they placed order of Milk Powder worth Rs.14 Lakh and assured the applicant that amount will be paid to the applicant company through cheque. 4. That applicant bonafidely believed the assurance of Parshant and Rishi Raj and dispatched Milk Powder worth Rs. 14 Lakh vide e-way invoice No GST-811 dated 09.01.2024 and the said material was duly received by Parshant and Rishi Raj. 5. That in furtherance of fraudulent intention Parshant oven told the applicant that he has issued the cheque with regard to the due payment and also assured that he has dispatched the cheque through courier and he shared the detail of the courier dispatched by him.6. That applicant as astonished upon receiving the courier when envelop was opened and found that only one photocopy of the cheque having no amount mentioned (blank photocopy) was sent by him.7. That intact afterwards applicant came to know that Ravinder Rana was also his accomplice and co-conspirator because he was earlier our employee and upon the asking of Ravinder Rana material was supplied and he send the photocopy of blank cheque regarding paying of amount from his Mobile and infact he with a malafide intention prior to sending of material to Rishi Raj had already connived and conspired to commit fraud with applicant. 8. That the applicant immediately made telephonic call to Prashant and Rishi Raj and Ravinder Rana, upon which they clearly told that their intention from the very beginning was to cheat the applicant in which they have succeeded and asked the applicant to do whatever applicant can do and

further threatened to eliminate the applicant in case they will take any action. It is therefore requested that proper enquiry may kindly be got conducted and FIR may kindly be registered against aforesaid Parshant and Rishi Raj...”

Submission by the petitioner

(4). Learned counsel for the petitioner contends that the instant FIR has been lodged against the petitioner by the complainant Tejinder Kumar Bansal, Director, M/s Bansal Milk Chilling Centre P.Ltd., Maur Mandi, Bathinda whereas the petitioner along with his father is dealing with the business of manufacture of Panneer (cheese). He submits that co-accused Ravinder Rana being the salesman of the complainant-company approached the petitioner for the purchase of milk powder and allured him to place order of 200 bags to the tune of Rs.14 lacs vide invoice No.GST-811 dated 09.01.2024, which was dispatched on 09.01.2024 and delivered with the petitioner on 09.01.2024.

(5). It is vehemently argued that an application/complaint was submitted by the complainant before DSP, EO Wing, Bathinda, who after conducting thorough enquiry and after recording statement, found that the matter is of commercial transactions and the same can be agitated before the court and nothing is to be done by the police and the complainant in order to arm-twist the petitioner, has managed to get the present FIR lodged against him concealing the fact that the first complaint submitted by the complainant has already been consigned.

State's contention

(6). Learned State counsel opposed the prayer made by the counsel for the petitioner on the ground that the petitioner connived with the other accused

person including the salesman of the complainant-firm and cheated him inasmuch as the co-accused Rishi Raj had received consignment of the order placed by them worth Rs.14 lakhs and they have flatly refused to make payment of the amount and rather they are making false pretexts that the material delivered to them was expired material, which plea was taken by the petitioner much later and only after filing the instant FIR.

Analysis

(7). The petitioner has admitted the deliverance of the milk powder on 09.01.2024 received from the complainant-firm though the same is alleged to have been expiring by 16.01.2024 i.e. only after less than a week from the date of delivery of the product. It is the case of the petitioner that the said fact was duly informed to the complainant vide letters dated 11.01.2024 (Annexure P4 & P5) and the goods were kept in the adjoining field under telephonic intimation to the complainant and the accused salesman besides the legal notice, referred to in the FIR.

(8). Contrarily, the respondent/complainant has their own story to plead the case against the petitioner inasmuch, the petitioner, even after receiving the delivery, did not come forward to make full payment and rather sent photocopy of the cheque. Rather the complainant also moved petition under Section 18 of the Micro, Small & Medium Enterprises Development Act, 2006 for recovery of a sum of Rs.15,12,000/- wherein the proceedings are still pending.

(9). The Supreme Court in **Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496** reiterated the broad policy as discussed by the Constitution Bench in **Bihar Legal Support Society v. Chief Justice of India,**

(1986) 4 SCC 767 in relation to matters of grant or rejecting the bails and while considering the issue of grant of bail, it elucidated various factors that are always considered, *inter alia*, relating to *prima facie* involvement of the accused, nature and gravity of the charge, severity of the punishment, and the character, position and standing of the accused, which ultimately depends upon the specific facts and circumstances of the case before the Court. It further authoritatively held that at the stage of granting bail, the Court is not required to enter into a detailed analysis of the evidence in the case as such an exercise may be undertaken at the stage of trial.

(10). Be that as it may, it is indeed a matter of trial to determine whether the petitioner avoided payment of the milk product which he received with a view to cheat and dupe the complainant or that the milk powder to the tune of Rs.14 lakhs received by him from the complainant’s firm was nearly expired and that he did not utilize 200 bags of milk powder received by him on 09.01.2024 and were thrown in the adjoining field. These are the questions which require to be tested before the trial court by leading cogent evidence and as such, it is not viable to delve into the merits of the allegations leveled in the FIR, at this stage.

(11). In the light of the above discussion based on material before this Court, the petitioner is not entitled to grant of concession of anticipatory bail.

(12). Hence, dismissed.

19.10.2024
V.Vishal

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

(Sandeep Moudgil)
Judge

- Yes/No
- Yes/No