**2024:PHHC:033779**

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

201

**CRM-M-60036-2022**
**Date of decision : 28.02.2024**

**Anil Kumar** **...... Petitioner**

**versus**

**State of Haryana** **...... Respondent**

**CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Lokpal Singh, Senior Advocate with
Mr. Vibhu Agnihotri, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

Mr. Kunal Dawar, Advocate and
Mr. Rohit Rana, Advocate
for the complainant.

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**PANKAJ JAIN, J. (Oral)**

1. By way of present petition, the petitioner has prayed for pre-arrest bail in FIR No.0090 dated 17.02.2022, registered for the offences punishable under Sections 120-B, 406, 420, 467, 468 and 471 of IPC, 1860 at Police Station Dabua, Faridabad.

2. As per the contents of the FIR, it has been alleged as under:-

> "To Commissioner of Police, Sec. 21 FARIDABAD DISTRICT FARIDABAD SUBJECT APPLICATION FOR COMPLAINT AGAINST CRIMINAL 1. ANIL KUMAR MOD. 9560997848) S/o SHRI SARDARI LAL 2 M/S CRIMSON OIL FIELD SERVICE 3. GANESH (MOD. 9911425622) EMPLOYEE AERPSHIP FREIGHT SOLUTIONS PVT. LTD Cheating dishonesty Regarding taking action against the above culprits who made fake

documents and bills and embezzled crores of rupees from the company. Sir, I request that I am applicant Pawan Bhadana Director M/S CRIMSON OIL TOOLS PVT. LTD AT PLOT NO 4-5 VILLAGE BHAKRI ROAD FARIDABAD and hereby inform you of the following facts that 1. That my company M/S CRIMSON OIL TOOLS PVT. LTD AT PLOT NO 4-5 VILLAGE BHAKRI ROAD FARIDABAD was formed in the year 2013, at that time the following persons were Directors in the company a. Pawan Bhadana 25 percent shareholder b. Mayank Sharma 25 percent shareholder c. Anil Kumar 25 percent shareholder d. Vipin Kumar 25 percent shareholder. 2. That In 2016, two directors Mayank and Vipin had resigned from the post of directors of the company and also transferred their stake to me (Pawan Bhadana) and I got 75 percent ownership of the company, which Anil Kumar did not like. I am Pawan Bhadana, 8th pass person and how did I get 75 percent ownership of the company, or because of which Anil started pressurizing me to make him an equal partner in my company because he is in charge of all the work of the company. Used to manage and I came under pressure and accepted his words and transferred my 25 percent stake to him and we both became 50-50 percent shareholders of the said company. 3. That Anil Kumar is a dishonest person of educated and cunning type, who was not happy even after getting 50 percent share in the company and with the intention of dishonesty, from the year 2017-2018, he started his own Proprietorship Firm named M/s. CRIMSON OIL FIELD SERVICE which is similar to my company M/S CRIMSON OIL TOOLS PVT. LTD AT PLOT NO 4-5 VILLAGE BHAKRI

ROAD FARIDABAD. And he had started plotting to cause financial loss to me and my company. My Company was given a purchase order 5019 by ARSENAL DOWNHOLE LLC, Houston U.S.A., which was also known to Anil Kumar because Anil Kumar used to look after all the tasks of the company. Due to which the goods were prepared according to the purchase order of the buyer company of my company, whose Invoice Number is COT-008-2019, in which the goods from 5'5 stop collar Company to the buyer company Arsenal Downhole LLC at Houston U.S.A. To be sent on 06.05.2019 from my company to Navin resident of village Pali Faridabad in the vehicle DL-IL-V-9354. The bill of this goods was prepared by Anil Kumar in the name of my company and one bill was prepared by Anil Kumar in the name of my company. Along with the bill, a fake bill was also prepared in the name of his firm M/S CRIMSON OIL FIELD SERVICE. In which it is clearly written that this goods is manufactured and on M/S CRIMSON OIL TOOLS PVT. LTD AT PLOT NO 4-5VILLAGE BHAKRI ROAD FARIDABAD and on which my company's allotted API CERTIFICATE whose monogram of NUMBER 10D-0053 was also shown on its fake bill and put both the bills in an envelope and gave them to the driver Naveen, and on the way when I checked the vehicle, the driver found two bills for the goods, when I asked the driver Naveen about it, he told that these two bills were given to him by Anil Kumar. That both these papers should be given along with the goods to Ganesh, the employee of the Forwarding Agent, which I saw that the invoice number COS-02-2019-20 Dated 03.05.2019 by firm CRIMSON OIL FIELD

SERVICE is also for the goods made by my company. This firm belongs to Anil Kumar, thus Anil Kumar has committed embezzlement fraud of crores of rupees by preparing fake bills. That when I tried to get to the bottom of the above forgery done by Anil Kumar, I came to know that Anil Kumar, in connivance with Ganesh, an employee of Forwarder Agent, changed the bill of my company and exported my goods by putting a fake bill of his firm. Seeing the proof of which on the website of ICE GATE, it was found that Shipping Bill No 2914059 dated 22.03.2019 is the same goods sent by the company CRIMSON OIL FIELD SERVICE firm whose IEC Code BX-WPK-8415P Dated 22.03.2019 has been sent. Shipping Bill Detail is attached. 6. That while investigating the bogus bill dated 06-05-2019 by Anil Kumar, I came to know about another bogus bill dated 22.3.2019 Material 9.625X12.25 Hinged Welded Bow spring Centralizer Co Company Arsenal Downhole LLC at Houston USA whose purchase order no. 4925 was also received by my company and that goods were also prepared in my company whose invoice number COT-096-2018-19 Dated 21-3-2019 which invoice COT-96-2018-19 Dated 21-3-2019 Entry is in Gate outward Register Copy of Invoice Gate Outward is attached with the application. 7. That the invoice COT-96-2018-19 Dated 21-3-2019 is signed by Anil Kumar and the goods were dispatched from my company M/S CRIMSON OIL TOOLS PVT LTD to the buyer company under the supervision of Anil Kumar but Anil Kumar With the intention of cheating, replaced my company's bill with a fake bill of my firm M/S SRIMSON OIL FIELED SERVICE and took the money of all the goods in his firm's bank account and the cost of this goods is about 5500 US dollar. 8. That after removing the above goods from the company, it goes to ICD Tughlakabad, Delhi for export, which Anil Kumar, after meeting Ganesh, an employee of Forwarded Agent, replaces the original bill of my company with the fake bill of Anil Kumar's firm and exports the goods to the said buyer company Arsenal Downhole LLC Houston U.S.A. and takes the amount in the bank account of his firm M/S CRIMSON OIL FIELD SERVICE 9. In this way, Anil Kumar former director created a fake firm named CRIMSON OIL FIELD SERVICE similar to my company M/S CRIMSON OIL TOOLS PVT LTD at Plot no 4-5, Village Pali Bhakri Road Faridabad and prepared orders of customers of my companies and made fake bills to take the amount into his firm's account. In this regard, Anil Kumar has made fake invoices of his firm for the finished goods of M/S CRIMSON OIL TOOLS PVT LTD, and conspired to embezzle, cheat, dishonestly create forged documents by making fake invoices of his work and shipping bills in the name of his firm. The cost of goods is more than Rs.1,00,00,000/-, a copy of which is attached with the application and Anil Kumar has taken the amount of this goods in the account of his firm. 10. That apart from the above bill which is under my supervision, Anil Kumar has also embezzled lakhs of rupees, regarding which you will be informed separately when proof comes to us. Sir. you are requested to investigate the said forgery, cheating, embezzlement, dishonesty, conspiracy to make fake documents etc. on the basis of the above facts and I should be given justice by registering an FIR against the following culprits.xxxx”

3. While issuing notice of motion on 22.12.2022, following order was passed:-

> "Learned Senior Counsel for the petitioner has submitted that in the present case earlier on the complaint filed by the complainant the Economic Offences Wing, NIT Faridabad had inquired into the matter and came to the conclusion that it was a civil dispute and no cognizable offence was made out. He referred to Annexure P-7 in this regard. He submitted that thereafter on a fresh complaint made to the Commissioner of Police, Faridabad, the present FIR was registered by alleging that an amount of Rs. 1.4 crores has been embezzled by the petitioner. He submitted that the registration of the FIR was totally contrary to the earlier inquiry being conducted by the Economic Offences Wing, NIT Faridabad as aforesaid. He further submitted that the entire case is based upon documentary evidence and he is ready and willing to join investigation as and when called by the police and also undertakes to cooperate with the investigation process.
>
> Notice of motion.
>
> Mr. Ranvir Singh Arya, learned Additional Advocate General, Haryana accepts notice on behalf of the State of Haryana.
>
> Mr. Kunal Dawar, Advocate has appeared on behalf of the complainant and has filed his power of attorney which is taken on record.
>
> The State of Haryana shall file an affidavit/reply in the present case before the next date of hearing with an advance copy to the learned counsel for the petitioner.
>
> The complainant shall also be at liberty to file an affidavit, if so desired and so advised.

Adjourned to 06.01.2023.

Till the next date of hearing, the arrest of the petitioner shall remain stayed."

4. Thereafter, on 06.09.2023, following order was passed:-

> "Learned State counsel on instructions submits that although the petitioner has joined investigation, however, there are bills which are found to be forged being at variance to the one's appended with the petition, therefore, the petitioner is required for purpose of investigation to tender explanation regarding the same as also show the corresponding amounts were received by the complainant.
>
> Faced with this, learned Senior counsel submits that the petitioner undertakes to again join investigation in case an opportunity is granted by this Court.
>
> The petitioner is directed to join the investigation on or before 25.09.2023.
>
> However, it is clarified that if the petitioner does not join and cooperate with the Investigating Agency as required by the Arresting/Investigating Officer, the interim order shall be deemed to have been vacated.
>
> Adjourned to 02.11.2023.
>
> Interim order to continue till the next date of hearing.
>
> Photocopy of this order be placed on the connected file."

5. Today, again State counsel submits that though the petitioner has joined the investigation, yet he has not cooperated as the source of bills is not coming forth.

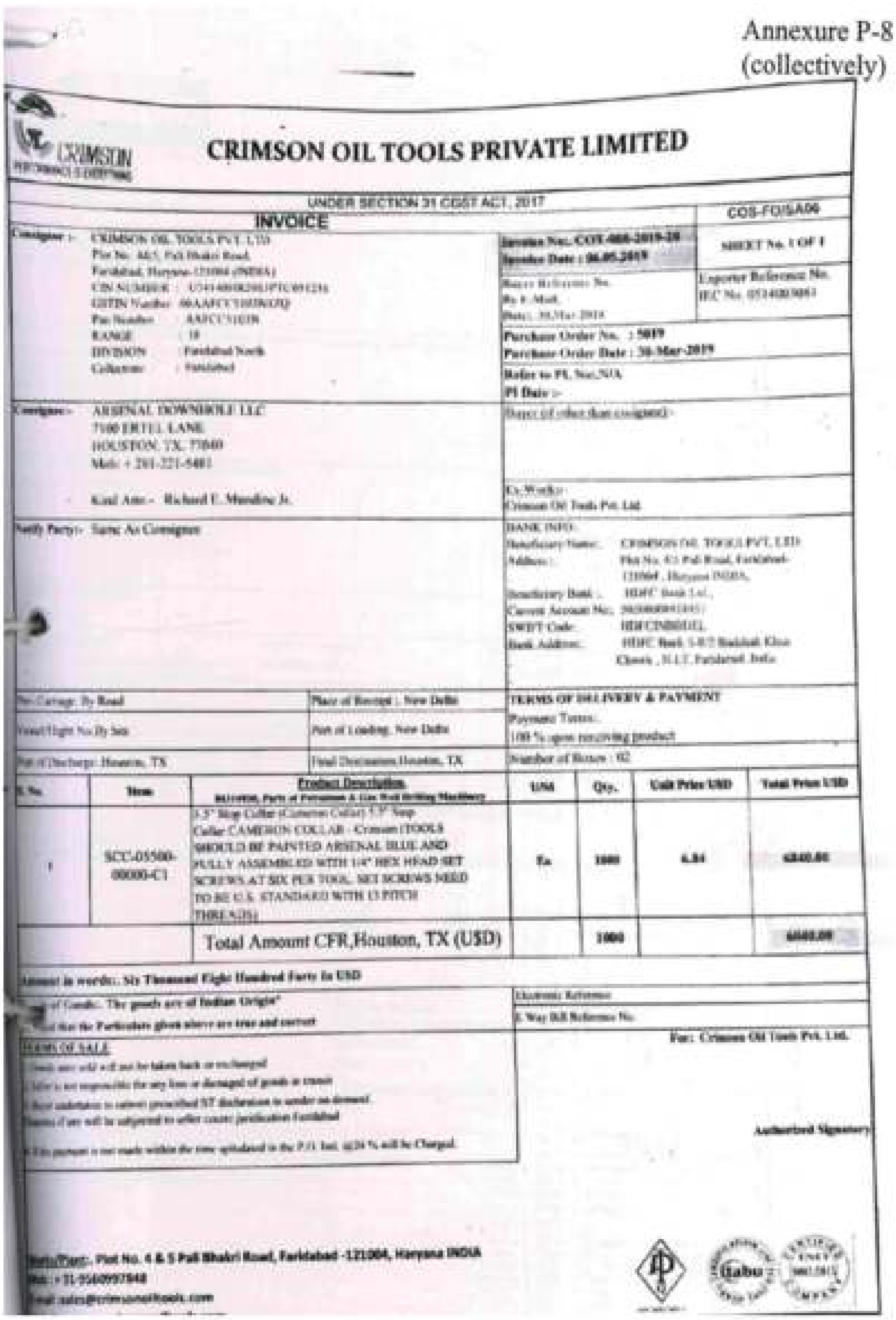
6. Learned senior counsel representing the petitioner has relied upon the inquiry conducted by Economic Offence Wing earlier in time to

submit that similar allegations were levelled against the petitioner earlier in time and on detailed preliminary inquiry, it was found that all the allegations levelled are purely of civil nature and thus no criminal offence was made out. He thus submits that admittedly the petitioner is also shareholder in Crimson Oil Tools Pvt. Ltd. and thus he cannot be accused of having misused the logo as is being alleged.

7. *Per contra*, Mr. Dawar as well as Mr. Bansal appearing for the State have submitted that the criminal offence against the petitioner is purely evident from the documents on record. Reference is being made to Annexure P-8 i.e. the original invoice of Crimson Oil Tools Pvt. Ltd. and invoice placed on record by the State in its reply annexed as Annexure R-1. It has been submitted that when both the documents are juxtaposed, it is evident that R-1 is a result of forgery within an intent of the petitioner to pass the business. The logo is of the original company and not of the proprietorship firm of the petitioner. Likewise, UPI numbers which are exclusively registered in the name of the company have been misused by the petitioner for his proprietorship firm. So much so, the address of the work plant belongs to the private limited company, yet the same has been wrongly utilized by the petitioner by mentioning the same on invoice.

8. Having heard rival contentions and after perusing the records carefully, this Court finds that the gravamen of the allegation against the petitioner is that he is having 50% share in company alongwith complainant i.e. Crimson Oil Tools Pvt. Ltd. The petitioner instituted a proprietorship firm by the name of Crimson Oil Fields Services and started shifting the business clandestinely to the proprietorship firm thereby causing loss to the company amounting to crores of rupees. The

*modus operandi* that the petitioner was using, was that for the purchase orders procured by the company, he was passing on the material under the name of his own proprietorship firm. The original invoice appended by the petitioner himself is at Annexure P-8 as well as the counterfeit thereof which has been appended alongwith the reply of the State are being reproduced hereinbelow:


Annexure P-8
(collectively)

CRIMSON OIL TOOLS PRIVATE LIMITED

UNDER SECTION 31 CGST ACT, 2017

INVOICE

COS-FO/SA06

SHEET No. 1 OF 1

Exporter Reference No.

Purchase Order No. : 5019

Consignee :- ARSENAL DOWNHOLE LLC
7100 ERTEL LANE
HOUSTON, TX, 77040

Kind Attn :- Richard E. Mundine Jr.

Ex-Works :-
Crimson Oil Tools Pvt. Ltd.

Notify Party :- Same As Consignee

BANK INFO:

Pre-Carriage: By Road | Place of Receipt : New Delhi

Port of Loading: New Delhi

Port of Discharge: Houston, TX | Final Destination: Houston, TX

TERMS OF DELIVERY & PAYMENT

Payment Terms:

100 % upon receiving product

| S. No. | Item | Product Description | U/M | Qty. | Unit Price USD | Total Price USD |
|---|---|---|---|---|---|---|
| 1 | SCC-03500-00000-C1 | SHOULD BE PAINTED ARSENAL BLUE AND FULLY ASSEMBLED WITH 1/4" HEX HEAD SET SCREWS AT SIX PER TOOL. SET SCREWS NEED TO BE U.S. STANDARD WITH 13 PITCH THREADS) | Ea | 1000 | 6.84 | [illegible] |
| | | Total Amount CFR,Houston, TX (USD) | | 1000 | | [illegible] |

Amount in words:- Six Thousand Eight Hundred Forty In USD

The goods are of Indian Origin

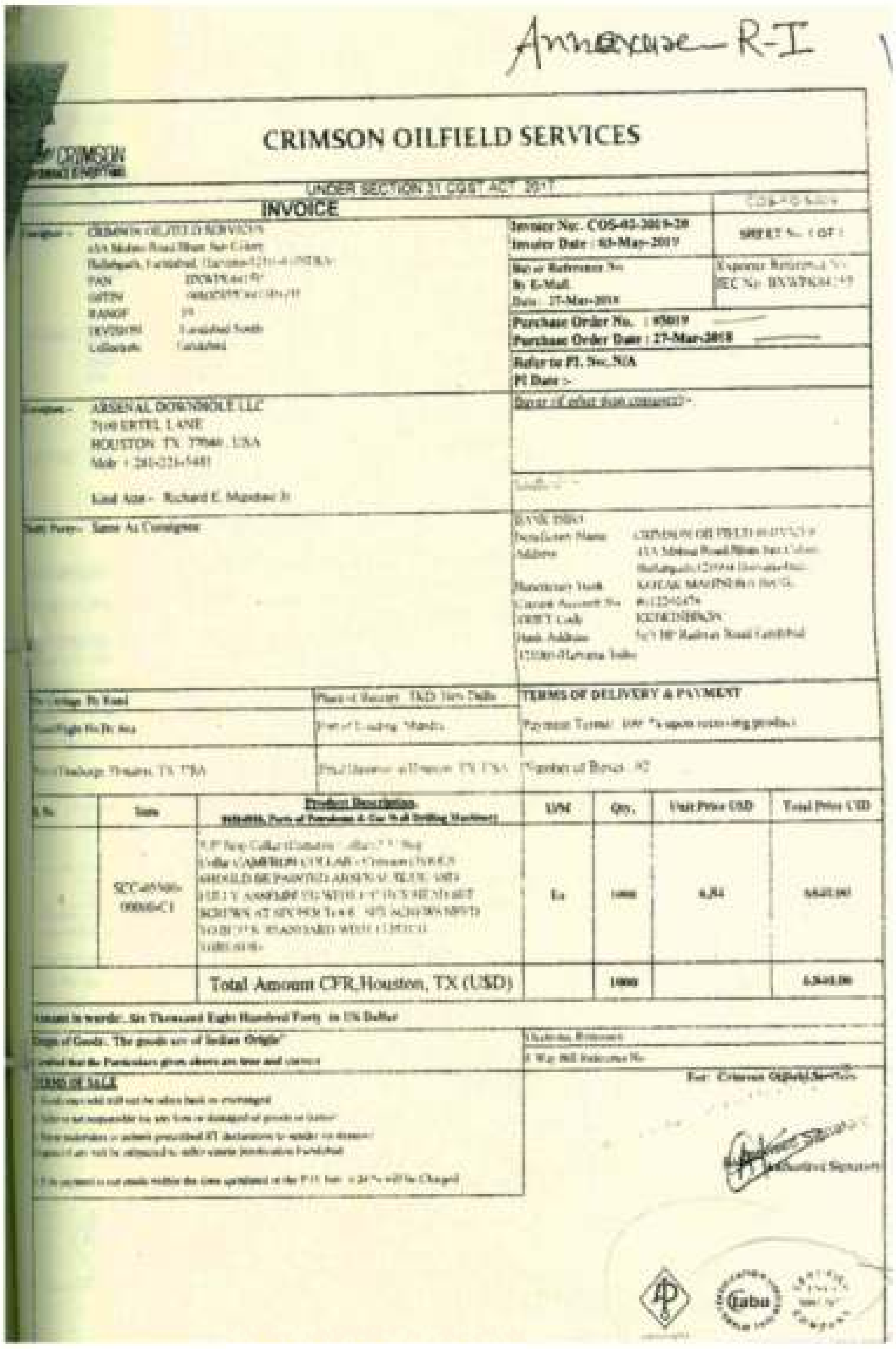
E Way Bill Reference No.

For: Crimson Oil Tools Pvt. Ltd.

TERMS OF SALE

Authorised Signatory

Plot No. 4 & 5 Pali Bhakri Road, Faridabad -121004, Haryana INDIA


Annexure-R-I

CRIMSON OILFIELD SERVICES

UNDER SECTION 31 CGST ACT 2017

INVOICE

Invoice No. COS-03-2019-20

Invoice Date : 03-May-2019

By E-Mail.

Date : 27-Mar-2019

Purchase Order No. : 85019

Purchase Order Date : 27-Mar-2018

Refer to PI. No. N/A

PI Date :-

ARSENAL DOWNHOLE LLC

7100 ERTEL LANE

HOUSTON TX 77040, USA

Same As Consignee

TERMS OF DELIVERY & PAYMENT

| S.No. | Item | Product Description | U/M | Qty. | Unit Price USD | Total Price USD |
|---|---|---|---|---|---|---|
| | SCC-05500-00000-C1 | [illegible] | Ea | 1000 | 6.84 | [illegible] |
| | | Total Amount CFR, Houston, TX (USD) | | 1000 | | [illegible] |

Amount in words: Six Thousand Eight Hundred Forty in US Dollar

TERMS OF SALE

For: Crimson Oilfield Services

Authorised Signatory

9. Keeping in view the seriousness of the allegation levelled against the petitioner and the fact that it is the petitioner who has to discern the modes and the source of counterfeited invoices, this Court finds that the investigation at this stage cannot be belayed. So far as the reliance of the senior counsel on the earlier inquiry is concerned, Section 154(1) and 154(3) of the Code is answer to that.

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10. Resultantly, the present petition is dismissed.

**(PANKAJ JAIN)**
**JUDGE**

**28.02.2024**
Dinesh

| | |
|---|---|
| Whether speaking/reasoned | Yes |
| Whether Reportable : | No |