

\\HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-53305-2024 (O&M)

Date of Decision: 24.10.2024

Ravinder Rana

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Dinesh Saini, Advocate for the petitioner

Sandeep Moudgil, J.

(1). 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

(2). 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

(3). 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 was a salesman with the firm run by Prashant along with his father who are dealing with the business of manufacture of Paneer (cheese). He submits that petitioner is neither the beneficiary in the alleged transaction nor has dispatched the allegedly soon to be expired order inasmuch as the co-accused Prashant had placed an order of 200 skimmed milk powder bags, each bag weighing 25 kg from the said firm, vide bill dated 09.01.2024.

(4). 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 as the complainant in order to arm-twist the petitioner, has managed to get the present FIR lodged against him concealing the fact that his first complaint has already been consigned.

State's contention

(5). Learned State counsel opposed the prayer made by counsel for the petitioner on the ground that the petitioner connived with the other accused person 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 co-accused much later and only after filing the instant FIR.

Analysis

(6). The petitioner has admitted the deliverance of the milk powder to the co-accused 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) by the co-accused wherein it was stated that the goods were kept in the adjoining field under telephonic intimation to the complainant besides the legal notice, referred to in the FIR.

(7). 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. **Prasanta Kumar Sarkar's** case elucidated various factors that are always considered 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 depend 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 trial stage.

(8). Be that as it may, it is indeed a matter of trial to determine whether the petitioner was involved and connived with the co-accused and avoided payment of the milk product which was 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 it is not viable for this Court to delve into the merits of the allegations, at this stage.

(9). In the light of the above discussion, the petitioner is not entitled to concession of anticipatory bail.

(10). Hence, dismissed.

24.10.2024
V.Vishal

(Sandeep Moudgil)
Judge

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

Yes/No
Yes/No