2024:PHHC:159737

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

103 **CRM M-58581 of 2024 (O&M)**
Date of Decision: 25.11.2024

Nitin Jadhav @ Nitin Dhansingh Jadhav ...Petitioner

Versus

State of Punjab ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Jitesh Jhajhria and Mr. Nikhil Wable, Advocates for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

Mr. Rohit Bhardwaj, Advocate for the complainant (through V.C.)

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 of BNSS with a prayer to grant anticipatory bail to the petitioner in FIR No. 0106 dated 28.07.2024 under Sections 406 and 420 of IPC registered at Police Station Division No. 1, Police Commissionerate Jalandhar, Punjab (Annexure P-1).

2. The FIR in the present case was registered on the basis of the statement made by Priyanka Nanda, Managing Director,

M/s GDV Global Private Limited Jalandhar and the same has been reproduced as under:-

> *"The Concerned Officer, Punjab Police Jalandhar, Subject: Reporting of cheating, fraud committed by Mr. Anand Kambale and Nitin Jadhav, owners of M/s Dew Holidays and M/s ANS Global Travel Pvt Ltd Mumbal. 1. M/s GDV Global Pvt Ltd is an online travel management company based at 141/5, Friends Colony, Opp DAV College, Jalandhar, Punjab-144004 and registered with Registrar of Companies Jalandhar, CIN U74110PB2022PTC055020 and GST No. 03AAJCG5207D1Z4. Mrs Priyanka Nanda (PAN-AGEPV7958C: ADHAAR - 3766 3527 0576) is the Managing Director (MD) of the company which deals in managing domestic and foreign travel for clients including booking worldwide hotels and travel/sight-seeing tickets. Since Apr 24, the MD of the company was dealing with senior officers from the Indian Army, Navy, Air Force, IAS and IPS undergoing the 64th National Defence Coutse at New Delhi for their forthcoming foreign trips along with families from 08-16 Jun 24 (four groups, viz USA, Switzerland/Paris, Eastern Europe and Japan) Towards this, detailed discussion and itinerary planning was done with clients by Ms Priyanka Nanda of M/s GDV Global Pvt Ltd and once the travel plans were finalized, Mr Anand Kambale and Nitin Jadhav (of M/s ANS Global Pvt Ltd and M/s Dew Holidays of Thane, Maharashtra) approached her to process the bookings of hotels, sight-seeing tickets and transport. They stated that they own these*

two travel companies in Mumbai and have good links and branches outside India and all bookings will be done by them and their branches. Ms Anand had committed and confirmed to undertake all the bookings and only thereafter M/s GDV Global Pvt Ltd collected advances from the officers and transferred a total of Rs 72,00,000/- (from ICICI Current Account No. 262905000274) to M/s Dew Holidays (Indusind Bank Current Account No. 201021230689) as per following transaction details: Sr. 1. date 02 May 24 Transaction Details S1162391 Amount 3,00,000/- (2) 03 May 24 S2122069, 4,50,000/- (3) 03 May 24, S2487071, 7,00,000/- (4) 04 May 24 S3600468, 1,00,000/- (5) 05 May 24 C5340776, 3,00,000/- (6) 06 May 24 S5378998, 2,00,000/- (7) 06 May 24 S5603603, 2,00,000/- (8) 07 May 24 S6483878, 4,00,000/- (9) 09 May 24 C6188785, 2,00,000/- (10) 09 May 24 S8722330, 4,00,000/- (11) 11 May 24 S365188, 5,00,000/- (12) 13 May 24 S1759617, 5,00,000/- (13) 15 May 24 S3519093, 2,00,000/- (14) 15 May 24 S4232276, 2,00,000/- (15) 16 May 24 S4608558, 6,00,000/- (16) 17 May 24 S5579634, 3,00,000/- (17) 18 May 24 S6493322, 4,50,000/- (18) 18 May 24 S6771093, 2,50,000/- (19) 19 May 24 S7122940, 4,50,000/- (20) 20 May 24 S7234835, 3,00,000/- (21) 21 May 24 S8305598, 2,00,000/- (22) 22 May 24 S9288846, 2,00,000/- Total 72,00,000/- 2. post deposit of above entire amount, Mr Anand Kambale and Nitin Jadhav had assured that all required bookings will be done by them well in time. They had also forwarded *confirmation details for blocked hotel rooms (all documents placed as enclosures to this document) However, as all the travel plans were to commence from 08 Jun 24, on 07 Jun 24 late midnigt, Mr. Anand Kambale and Nitin Jadhav informed Ms Priyanka of M/s GDV Global Pvt Ltd that all the bookings at hotels etc. were dishonored as if they were not made. This meant that none of the clients had any hotel or travel/sight-seeing tickets booked on the day of commencement of foreign travel despite paying in advance. This amounted to cheating, fraud of the entire deal amount (Rs 72,00,000/-) due to zero deliverables provided by M/s ANS Global Pvt Ltd and M/s Dew Holidays against advance payment by clients. 3. The above incident clearly indicates that Mr. Anand Kambale and Mr Nitin Jadhav had malicious and criminal intent from the very first day towards the whole deal wherein they made false promises, false confirmations, false bills/vouchers just to show that bookings have been made and based on those documents, payments were received by them. Once the payments were received, they started to make excuses and even avoiding the phone calls of the complainant and did not provide and confirmation/booking details. 4. However, as the clients had arrived at foreign destinations as per the designated dates, non-delivery of committed deliverables (Hotels, sight-seeing and transport) by M/s GDV Global Pvt Ltd would have left them stranded at foreign destinations and also attracted legal action from clients. Hence M/s GDV Global Pvt*

> *Ltd bring a responsible company, was forced to immediately approach other foreign suppliers to support the travel/stay/sight-seeing booking for entire trip of all four groups. Accordingly, all the services were re-booked and hired by M/s GDV Global Pvt Ltd at much higher corting (ranging from 20% to 110% inflated costs) as per current rates on the pre-designated dates, which has caused an overall loss of Rs 1,00,00,000/- (1 CR) along with the mental stress due to huge financial loss as well as the irrecoverable loss of reputation and business rapport of M/s GDV Global Pvt Ltd in defense clientele. 5. The complainant also fears that Mr Anand Kambale and Mr Nitin Jadhav will leave the country if no action is taken against them at the earliest. Therefore, through this complaint, it is requested that an FIR may kindly be registered against Mr Anand Kambale and Mr Nitin Jadhav of M/s ANS Global Pvt Ltd and M/s Dew Holidays u/s 420 and 406 of IPC and respective sections for the above-mentioned cheating and fraud for inducement towards false promises and taking consideration. Yours Truly Sd/- Priyanka Nanda, Managing Director M/s GDV Global Pvt Ltd Jalandhar, Punjab-144004)".*

3. Learned counsel for the petitioner vehemently contends that the petitioner is the founder and proprietor of a well established firm known as ANS Holidays, which is duly registered under the MSME Act. He is a regular tax payer and also registered under the GST Act. The petitioner had developed friendship with Anand Kambale, co-accused, while they were studying together in Mumbai

in the year 2000/2001. Thereafter, the petitioner worked in various Tours and Travel companies. After working in different Tours and Travels Companies, the petitioner had gained sufficient experience and in January 2020, he started his own proprietorship firm under the name and style ANS Holidays. In the year 2020, due to Covid 19 Pandemic, Anamd Kambale, co-accused lost his job and started working as a freelancer. When the petitioner came to know about the registration of the present case, he immediately called up Anand Kambale and requested him to explain transaction and the reasons for including his name in the FIR. He had never met the complainant or spoken or received any amount from the complainant. The petitioner was shocked to know that Anand Kambale had misused his email id as well as phone number. He further contends that Anand Kambale also voluntarily executed an affidavit dated 02.09.2024 (Annexure P-6) and admitted that he had a dispute with the complainant and the petitioner had no dealings with the complainant. Still further, the petitioner had annexed all his bank transactions to show that no money was received by him in his account and the petitioner had no concern with the allegations levelled by the complainant. Learned counsel further contends that the petitioner has already filed a complaint on 25.10.2024 against Anand Kambale at Police Station Vartak Nagar, Thane Maharashtra and has requested the police to register a complaint against Anand Kambale for illegally using the login/user id and password of ANS Holidays on the online global reservation system. Thus, the petitioner had neither made complaint nor spoken with her and he was not even aware of the fact that Anand Kambale, co-accused was arranging for hotel bookings for the clients of the complainant.

4. On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the petitioner on the ground that email id, phone number, GST and PAN of the petitioner had been used in the present case. Even, OTP was received on the mobile phone number of the petitioner, which was registered with RizLive.com and once the OTP was entered, only then the transaction was completed. This clearly proved that the petitioner was fully involved alongwith his co-accused Anand Kambale from the very beginning.

5. I have heard the learned counsel for the parties and perused the record carefully.

6. While discussing the bail application of the petitioner, the trial Court has recorded the following findings:-

> *"As per the complainant version, the complainant is running a company which deals in managing domestic and foreign travels for clients including booking worldwide hotels and travel/sight-seeing tickets. It is the case of complainant that they are running the company by the name of M/s GDV Global Pvt.Ltd. and they had finalized the travel plans with the present petitioner and*

one Anand Kambale of M/s ANS Global Pvt.Ltd. and M/s Dew Holidays. As they had approached them for booking the hotels, sight-seeing, tickets and transport and a sum of Rs.72,00,000/- was paid in the account of M/s Dew Holidays and details of which has also been given in the complaint. As per the version of the complainant, the present petitioner alongwith Anand Kambale had assured that all the bookings had been done by them, but the same were not done by Anand Kambale and present petitioner Nitin Jadhav informed the complainant that all bookings at hotles etc. were dishonoured as if they were not made and due to this conduct of the present petitioner and Anand Kambale, the complainant suffered a huge loss, as they had to get it done from some other agency at much higher costing. Though specific stand is taken by the petitioner that his email ID and GST number have been misused by Anand Kambale, but prima-facie this assertion seems to be false, as the transaction is completed only when OTP is sent and the same is sent only on the registered mobile phone. The specific case of the prosecution is that the present petitioner admits that his email ID is nitin@ansholiday.in and registered mobile phone number is 9820042478 and he is having agency code of RizLive.com with user ID ca88603 and the password. The registrations were made from the user ID and password of the present petitioner and a detailed report has been filed by RizLive.com that the bookings were made by Nitin Jadhav i.e. present petitioner only through his registered agency code ca88603 and regular emails were sent at email ID nitin@ansholiday.in and phone

> *No.9820042478. As per record, the transactions in question were made by ANS Global alias through Dew Holidays and it is the case of prosecution that the present petitioner deliberately permitted the use of his email ID and GST number. Moreover, the OTPs were received on the phone number of the present petitioner and on the basis of these OTPs only the transactions were done in the present case. It is alleged in the FIR that the present petitioner alongwith other co-accused induced the complainant to pay a sum of Rs.72,00,000/- on the assurance that the bookings will be done, but inspite of having received huge amount, the same were not done".*

7. I have carefully considered the submissions made by the learned counsel for the parties as well as have gone through the findings recorded by the Sessions Judge, Jalandhar and found no reasons to disagree with the same. There are serious and specific allegations against the present petitioner and this Court is satisfied that the petitioner had joined hands with his co-accused Anand Kambale, to cheat the complainant. Even, the police has found sufficient evidence to show that the e-mail id and GST number of the petitioner were used in the commission of the crime. Even, the OTP was being sent on the mobile phone of the petitioner, after completion of the transaction and the petitioner was actively involved in the crime. Even, they had cheated the complainant to the tune of Rs. 72,00,000/- on the assurance that the bookings will be done. However, even after getting such a huge amount, the bookings were

not made and created extreme hardship for the complainant in the present case.

8. Thus, keeping in view the gravity of the matter, the present petition is liable to be dismissed by this Court.

9. Dismissed.

25.11.2024 **(N.S.SHEKHAWAT)**
amit rana **JUDGE**

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No