IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.64801 of 2023
Reserved on: 12.08.2024
Pronounced on: 30.08.2024

Krishan Goyal **...Petitioner**

Versus

State of Haryana **…Respondent**

CORAM: **HON'BLE MR. JUSTICE ANOOP CHITKARA**

Present: Ms. Sunaina, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
137	14.02.2018	Karnal City, District Karnal	420 and 406 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.

2. In paragraph 12 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

> "*2. That in compliance of order passed by this Hon'ble Court, it is submitted that a complaint was moved by Kiranbala W/o Sh. Sanjay Kumar R/o H.No.1, Tubewell Colony, Jundala Gate, Karnal against Krishan Thippar son of not known, 2. Shubham Thapar son of Krishan Thappar, 3. Sanjeev Mittal son of Sh. Kaliram residence in front of Taxi Stand, Indn District Karnal, 4. Balram Goyal, 5. Raj Goyal Managing Director, Global Trade Mart Lid, 20/210, Sirki Mandi, near State Bank of Bikaner, Jaipur House Aagra, Uttar Pradesh before the Superintendent of Police, Karnal regarding duping of Rs. 16,46,000/-on the pretext of giving dealership of entire Haryana State by way of forging a fake Firm Global Trade Mart Ltd. and by getting published fake advertisement papers regarding Food Supplement Medicines and Kangan waters Japanese Water Machine R.O. On the said complaint case FIR No. 137 dated 14.02.2018 U/S 420/406 of IPC Police Station City, Karnal was registered against accused Krishan Thippar, Shubham Thapar 3. Sanjeev Mittal 4. Balram Goyal, Raj Goyal and etc. Contents of the complaint are already reproduced in the petition therefore same are not being reproduced for the sake of brevity.*

3. That after registration of FIR, initially investigation was carried out by ASI Surender Kumar Police station City, Karnal, who during the course of investigation obtained bank statement of account No. 5053201000059, Canara Bank of Kiran Bala and bank statement of account bearing No. 005061900000871 Yes Bank of accused Balram Goyal Global Trade Mart Ltd. and other relevant documents and same were taken into the police possession vide memo. Thereafter, as per direction of senior officer the case was entrusted to Economic Offence Wing, Karnal, where the investigation of the case was carried out by SI Harbajhan Singh. During investigation, relvant record of Global Trade Mart Ltd. was obtained from the office situated at Kanpur (UP) and same was taken into the police possession. From the perusal of record, three companies namely Growth mantra Net Marketing Pvt. Ltd, Aryavart Welness Ingredients Pvt. Ltd. and Mountain Age Wellness Pvt. Ltd. were found registered from the Company Registrar Office Kanpur, in which accused Balram Goyal, Raj Kumar goyal and Krishan Goyal are Directors. From the perusal of statements of account No. 005061900000871 Yes Bank of accused Balram Goyal, it was found that the petitioner and other co-accused had cheated the complainant by showing the various forged and fabricated pamphlets etc. and had embezelled a sum of Rs. 1646,000/- from the complainant by alluring her on the pretext of giving dealership of Haryana qua selling the food suppliments, medicines and RO Purifier etc. and accordingly accused Raj Kumar Goyal @ Raj was arrested in the present case. He suffered his disclosure statement by admitting his crime alongwith other co-accused and accordingly, section 120-B of IPC was added in this case. Thereafter, accused Balram Goyal was arrested in the present case on 15.01.2019 and he was produced before the Ld. Illaqa Magistrate, Karnal and he was released on bail.

4. The petitioner's counsel submits that the dispute in the present petition arose out of commercial transaction between the petitioner and the complainant which stands settled. However, name of the petitioner is not mentioned in the FIR and thereafter his name was nominated in the final report under section 173 Cr.P.C. which has been filed before the trial court and name of the petitioner was nominated for the reason that the petitioner is Managing Director of the Company along with other co-accused. He further submits that that both the co-accused namely, Balram Goel and Raj Kumar are on bail. He further submits that the disputed amount is Rs. 16,46,000/- and the matter between the parties has been settled at Rs. 16,00,000/- out of which Rs.6 lacs were given in cash by the petitioner and other two co-accused and 04 cheques have been handed over, among which 2 cheques i.e., cheque no. 011687 dated-14.01.2019 of Rs. 2,50,000/- and Cheque no.011688 dated-30.03.2019 is of Rs.2,50,000/- which belongs to the account no.201534001100452. Similarly, Virender Goyal, the brother of the petitioner furnished two cheques bearing no.315970 dated 15.06.2019 of Rs.2,50,000/- and cheque no.315971 dated- 31.08.2019 of Rs.2,50,000 associated with account no.217001000001589. He further submits that out of 4 cheques, one cheque was honoured and 3 cheques were dishonoured regarding which complainant filed three different criminal complaints under Section 138 of NI Act. He further submits that cases filed by the complainant before the trial Court have been withdrawn vide order dated 07.04.2021 as the matter has been settled between the parties.

5. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the

petitioner and their family.

6. The State's counsel opposes bail and refers to the reply.

7. It would be appropriate to refer to the following portions of the reply, which read as follows:

> *"9. That specific and active role was attributed to the petitioner alongwith his brothers/to-accused Raj Kumar Goyal and Balram Goyal. The petitioner was active Director of alleged Firm Global Trade Mart Ltd. at the time of incident, in which the complainant and other victims have invested the money. The petitioner/ accused alongwith other accused allured the complainant that they will get her dealership of Haryana qua selling the food supplements and medicines and the complainant came under the sweet talks of the petitioner/accused. Under the influence of the petitioner/accused, the complainant has invested in lakh of rupees in the accused/ petitioner firm. Similarly, other victims also invested the money for purchasing RO purifier through complainant. In this way, the petitioner alongwith other co-accused have embezzled a sum of Rs. 16,46,000/- from the complainant and other victim. Moreover, during investigation, the petitioner/accused did not get recover the cheated money to the Investigating Agency.*
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> *10. That there are serious allegations against the petitioner/ accused that the petitioner alongwith other co-accused persons had cheated the complainant and have allured her by showing the various forged and fabricated pamphlets etc. and the complainant came under the sweet talks of the petitioner/accused and other co-accused and thereby the petitioner and other co-accused have embezzled a sum of Rs. 16,46,000/- from the complainant and other victim on the pretext of giving dealership of Haryana qua selling the food supplements, medicines to complainant and R.O. Purifier to other victims etc. The offence committed by the petitioner/accused is serious in nature. During investigation, the petitioner/accused did not get recovered the cheated money. Hence, the custodial interrogation of the petitioner/accused might be imperative in order to recover the embezzled money. Hence, considering the seriousness and gravity of offence, the petitioner does not deserves the concession of extra ordinary relief of bail at this stage, thus the present petition deserves to be dimissed."*

8. FIR pertains to the year 2018. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

9. Given the above, the penal provisions invoked coupled with the primafacie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa

Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner's complying with the following terms. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

13. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

14. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

15. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Sonia Puri

Whether speaking/reasoned: Yes
Whether reportable: No.

Sonia Puri
2024.08.30 16:36
I attest to the accuracy and
integrity of this document