HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous Bail Application No. 14843/2024

1. Kishan Kumar Gupta @ Rinku S/o Sadanand Gupta, Aged About 32 Years, R/o House No. 30, 2Nd Floor, Sector 15, Vasundara, Gaziabad, Uttar Pradesh. (At Present Confined In Central Jail Alwar).
2. Pankaj Kumar Gupta S/o Sadanand Gupta, Aged About 30 Years, R/o House G-528, Gama 02, Greater Noida, Rampur Jagir, Gautam Buddh Nagar, Uttar Pradesh. (At Present Confined In Central Jail Alwar).

----Petitioners

Versus

State of Rajasthan, Through PP

----Respondent

For Petitioner(s)	:	Mr. Rahul Sehra, Adv. Mr. Rakesh Choudhary, Adv.
For Respondent(s)	:	Mr. Sudesh Saini, PP Mr. Manish Gupta, Adv.

HON'BLE MR. JUSTICE GANESH RAM MEENA

Order

16/12/2024

1. This bail application has been filed by the accused-petitioners under Section 483 of B.N.S.S. in connection with F.I.R. No. 72/2024 registered at the Police Station N.E.B., District Alwar for the offence punishable under Sections 420 & 406 of IPC.

2. Learned counsel for the petitioners submits that the allegation against the petitioners is of non-payment of about Rupees Twenty Eight Lacs, which was due out of the business transaction.

3. Learned counsel for the petitioners further submits that there are no ingredients of cheating against the accused-petitioners as

defined under Section 415 of IPC for which the petitioners could be convicted and sentenced under Section 420 of IPC. He further submits that at the most for non-payment of the dues offence under Section 406 of IPC could be made out that too of triable offence led by the prosecution before the trial Court. It is also submitted that for conviction under Section 406 of IPC, the punishment could be also only fine and in such circumstances the accused petitioners who are in custody since 23.10.2024 be released on bail. Learned counsel for the petitioners has also placed on record certified documents recording the business transaction between the accused party and the complainant.

4. Learned Public Prosecutor as well as learned counsel for the complainant have opposed the bail application.

5. Learned counsel for the complainant has submitted that the accused-petitioners have not been paid about Rupees Twenty Eight Lacs for the goods which he has delivered to the accused-petitioners.

6. Learned Public Prosecutor also read out from the case diary that in the interrogation of the accused-petitioners, he has admitted the factum of non-payment of Rupees Twenty Eight Lacs.

7. Considering the submission made at Bar and also perused the case diary.

8. From the averments made in the first information report and so also the perusal of the case diary and the documents placed before this Court by the counsel for the petitioners, it is borne out that there are business dealings between the parties. The complainant party was supplying the onions to the accused-petitioners for which the accused-petitioners was making payment

to the complainant. Learned counsel for the complainant admits that out of total of Rupees Seventy Three Lacs about Rupees Forty Five Lacs have already been paid by the accused-petitioners to the complainant. He has withhold near about Rupees Twenty Eight Lacs for no reasons. Learned counsel for the complainant also admit the fact that he has already served a notice to the accused-petitioners for non-payment of the due amount.

9. Taking into consideration the overall facts and circumstances of the case and so also the allegations against the accused-petitioners and the facts borne out from the evidence collected during investigation that there are business dealings between the parties, this Court without expressing any opinion on merits and demerits of the case, deems just and proper to enlarge the petitioners on bail.

10. Accordingly, this bail application is allowed and it is directed that accused-petitioners shall be released on bail provided they furnishes a personal bond in the sum of Rs.1,00,000/- (Rupees One Lac only) together with two sureties in the sum of Rs.50,000/- (Rupees Fifty Thousand only) each to the satisfaction of the trial Court with the stipulation that they shall appear before the trial Court or any other Court to which the matter is transferred, on all subsequent dates of hearing and as and when called upon to do so.

(GANESH RAM MEENA),J

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