

14.01.2025
Sl. No.2
akd
[ALLOWED]

C. R. M. (A) 3789 of 2024

In Re: An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed on 14.10.2024 in connection with Kalyani Police Station Case No.817 of 2023 dated 08.12.2023 under Sections 406/420/34 of the Indian Penal Code.

And

In Re: ***Sh. Rajeev Kumar***

... .. Petitioner

Mr. Shreeyash U. Lalit
Mr. Himanshu Vats
Mr. Ramendu Agarwal
Ms. Sonia Das

... .. for the petitioner

Mr. Sumanta Das
Mr. Avilash Tripathi

... .. for the de-facto complainant

Mr. Rudradipta Nandy .. Id. Addl. Public Prosecutor
Ms. Trisha Rakshit

... .. for the State

1. Petitioner is the Director of '*M/s. Black Short India Ltd*', a company engaged in manufacture, sale and distribution of liquor products. Petitioner's company entered into an agreement with '*M/s. Bengal Wines Pvt. Ltd.*' for blending, bottling and packaging of liquor manufactured by the latter company. For distribution of liquor so packaged, petitioner's company had entered into a C & F agreement with the complainant firm viz. '*M/s. Brahmma Enterprise*' in February, 2021. The agreement was terminated by the complainant viz. Bidesh Chandra Hazary in November, 2022 on personal grounds. Subsequently, in December, 2023 FIR was registered being Kalyani Police Station Case No. 817 of 2023 (present case) alleging the petitioner and others had dishonestly induced the complainant to deposit a sum of Rs.70 lakhs on the false promise of huge profits but

did not supply liquor for distribution and refused to refund the said sum after termination of agreement. In similar fashion another C & F agent, i.e., Animesh Samanta had lodged complaint being Kolaghat Police Station Case No. 792 of 2024 (subsequent case) alleging breach of the terms of agreement and non-refund of a sum of Rs.1.6 crores.

2. Mr. Lalit for the petitioner contends the uncontroverted allegations in the FIR when read in the backdrop of the facts of the case would not disclose any dishonest intention far less from the inception of the transaction. His client had dispatched consignments to a government warehouse viz. West Bengal State Beverages Corporation Limited (*hereinafter referred to as 'WBSBCL'*) and the complainant had not taken delivery of the said consignments. He further contends the allegations in the case registered at Kolaghat Police Station is a facsimile of the earlier one, i.e., registered at Kalyani Police Station and was registered on the day his client was granted interim protection in the earlier case. His client has cooperated with investigation and has been interrogated. Custodial interrogation is not necessary. Accordingly, he prays for anticipatory bail.

3. Learned Additional Public Prosecutor opposes the prayer for anticipatory bail. He submits petitioner's company had entered into similar arrangements with a number of C & F agents and cheated them. C & F agents were induced to deposit large sums of money but no consignments were delivered for distribution. On the other hand, consignments had been diverted to other agents for distribution. When they terminated their contract, the deposits made by the complainant were not refunded.

4. Learned Advocate for the de-facto complainant also opposes the prayer for anticipatory bail. He submits his client was induced to part

with Rs.70 lakhs on the false promise of getting higher returns as C & F agent but the promises were belied as no consignment was delivered as per the terms of agreement for distribution. Deposit made by him was misappropriated.

5. We have considered the rival submissions at the Bar. We have also gone through the terms of C & F agreement executed between the petitioner's company and the de-facto complainant/firms. Clauses 7 and 8 of the agreement, inter alia, cast duty upon the petitioner's company to make delivery of the consignments at the agent's godown.

6. Mr. Lalit contends as per mutual arrangement, consignments were delivered at the godown of WBSBCL and the agents were required to take delivery therefrom. Though his submission runs counter to the terms of the agreement, nothing is placed on record to show during the subsistence of the agreement grievances were raised by the de-facto complainants/agents that the consignments had not been delivered at their respective godowns.

7. On the other hand, both the de-facto complainants terminated the agreements for other reasons. De-facto complainant in the present case terminated the agreement vide electronic mail dated 01.11.2022 on personal ground ,whereas de-facto complainant in CRM (A) 4305 of 2024 terminated the agreement vide electronic mail dated 21.06.2022 expressing his inability to deposit the entire money on health grounds. There is no whisper in the termination communications that the same were due to non-performance on the part of the petitioner's company. Belatedly, the grievances have been resurrected in the FIRs alleging dishonesty and non-delivery of consignments.

8. Interestingly, both the FIRs are facsimile of one another and have been written in the same language. It appears the allegations in

the FIR have been orchestrated to give a criminal profile to a civil dispute relating to breach of contractual agreement between a principal and its C & F agents.

9. Be that as it may, it is also relevant to note documents have been placed on record to show the consignments were kept in the warehouse of WBSBCL, a government organization and not diverted. Moreover, the petitioner has cooperated with the investigation and has been interrogated.

10. Under such circumstances, we are of the opinion custodial interrogation of the petitioner for progress of investigation is not necessary and he may be granted anticipatory bail however, subject to strict conditions.

11. Accordingly, we direct in the event of arrest, the accused/petitioner, namely, **Sh. Rajeev Kumar**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 and on further condition that the petitioner shall meet the Investigating Officer once in a fortnight until further orders. He shall appear before the jurisdictional court and pray for regular bail within four weeks from date.

12. CRM (A) 3789 of 2024 is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)