



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204

CRM-M-61511-2024
Date of Decision : **January 21, 2025**

HIMANSHU THAKKAR

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Abhishek Arora, Advocate
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. Umesh Kumar Goel, complainant in person.

KULDEEP TIWARI, J. (Oral)

1. Through the instant petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner prays for grant of regular bail in case FIR No.208 dated 31.5.2023, Under Sections 120-B, 406, 420, 467, 468, 504, 506 IPC, registered at Police Station City Sector-40, District Gurugram.
2. The petitioner was arrested in this case on 12.7.2024. The instant FIR has been lodged on a complaint made by one Umesh Kumar Goel with the allegations that the petitioner alongwith other co-accused misrepresented himself to be in the business of Aercanut. The relevant facts, which have been culled by the learned Additional Sessions Judge concerned

while declining the relief of regular bail to the petitioner are extracted hereinafter:-

“The complaint was sent by the Court of learned JMFC, Gurugram for registration of case under Section 156(3) Cr.P.C. The complainant submitted that the firm is dealing in Aercanut (Supari). The accused Sanjay introduced the complainant to accused Ranjeet and Himanshu. The accused persons hatched a conspiracy to cheat and defraud the complainant. They created forged documents and issued forged cheques and dishonestly induced the complainant to give delivery of Aercanut. The accused persons from the very beginning had the intention to usurp the money of the complainant. The complainant supplied the Aercanut against different invoices for a total sum of Rs.1,93,75,300/-. The accused No.1 made part payment of Rs.1,29,38,001/-. Later on, it transpired that the payment was made to gain trust of the complainant so that he can have means and time to misappropriate the goods and cheat the complainant. The accused Sanjay has to pay a sum of Rs.40,87,299/- alongwith interest. At the time, when the complaint was made to the police on 29.01.2022, the total amount pending was 64,37,299/-. The complainant stopped the supply of goods as heavy amount was pending towards the accused Sanjay. When accused Sanjay was approached for the balance amount, he introduced the complainant to Ranjeet and Himanshu stating that they are good businessmen. Trusting the accused Sanjay, the complainant supplied the Aercanut. The accused No.1 issued cheques worth Rs.48,04,000/-. The aforesaid cheques were dishonoured. The cheques issued by the accused Ranjeet and Himansu also dishonoured. On the complaint, the present case was registered.”

3. Learned counsel for the petitioner in the asking for the relief (supra) submits that the petitioner is facing trial for the offences which are triable by the Court of the learned Judicial Magistrate 1st Class and has



suffered incarceration of 6 months and 4 days as on today. He further submits that the petitioner was earlier granted interim bail by this Court considering the fact that *prima facie* case is of business transaction and there is no elements of any *mens rea* inviting the provisions of Sections 420 and 406 IPC. He also submits that solely on account of the petitioner failure to join the investigation, his earlier interim anticipatory bail was dismissed. He further submits that the petitioner is ready and willing to submit his affidavit disclosing therein, his permanent address, mobile phone, which he is using so as to ensure his presence before the learned trial Court concerned.

4. The learned State counsel assisted by the complainant has vociferously opposed the grant of regular bail to the petitioner.

5. The complainant submits that the amount has not been recovered in this case and the investigation in this case with regard to the role of Vandana, who is wife of the main accused, namely, Sanjay is yet to be ascertained, as the prosecution agency is waiting for the report of FSL.

6. The learned State counsel on instructions imparted to him by the official concerned submits that the investigation *qua* the petitioner has already completed and after completion of investigation, the final report has been filed way back on 6.9.2024 and in the final report, the prosecution has cited total 16 witnesses in the final report. He also submits that no witness has been examined so far. He also submits that the investigation on different aspect is yet to be completed.



7. This Court has considered the rival submissions made by the learned counsel for the parties concerned.

8. While granting the relief of anticipatory bail to the petitioner, this Court has passed the following order:-

“Prima facie, it appears to be a case of business transaction which later turned sour. Both sides seem to have suffered major financial loss qua the supply of goods (Areca nuts, a perishable commodity if not preserved properly) undertaken by the complainant. It transpires that the cheque for an amount of Rs.18 lakh was also issued in favor of the complainant which however got dishonored. Pursuant thereto, primary proceedings under Section 138 of Negotiable Instruments Act are also going on. And yet, arising out of the same transaction, FIR in question has also been collaterally registered at the instance of the complainant.

Be that as it may, at this stage, it is not possible to ascertain the criminal culpability, even though, prima facie it does appear to be a case of civil dispute/business transaction between the parties herein, for which they are at liberty to sue for damages.

Notice of motion.

On advance service of copy of petition, learned State counsel appears and accepts notice on behalf of the respondent- State of Haryana and seeks time to file reply.

Adjourned to 14.11.2023.

In the meanwhile, petitioner shall join investigation, as and when required by the Investigating Agency and subject to his reporting to the Investigating Officer within two weeks from today, no coercive steps qua arrest of the petitioner shall be taken. In case, his arrest is required to be caused, petitioner shall be released on bail by the Arresting Officer till the next date of hearing on his furnishing personal bonds to the satisfaction of Arresting Officer. Petitioner shall also abide by all the conditions as envisaged under Section 438 (2) Cr.P.C.”

9. Without observing about the merits of the instant case and considering the fact that the petitioner has suffered incarceration of about 6 months and 4 days as on today and the trial is yet to begin coupled with the fact that all the offences under which the petitioner is facing trial, are triable by the Court of learned Judicial Magistrate 1st Class and the trial can



take long time, this Court after also considering the antecedents and the stage of the trial, deems it fit and appropriate to extend the benefit of regular bail to the petitioner. Therefore, the present petition is **allowed**.

10. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

6. The petitioner is also directed to sworn an affidavit disclosing therein his permanent address, where he is residing alongwith his mobile number, which he is using.

7. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

January 21, 2025
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No