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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 3261/2024

MANISH SHUKLA

.....Petitioner

Through: Mr. Vishal Bansal, Advocate.

versus

THE STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Ms. Manjeet Arya, APP for the State
with SI Shankar, P.S. Swaroop Nagar.
Mr. Hariom, Advocate for the
complainant *via* video-conferencing.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

14.02.2025

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By way of the present petition filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), the petitioner seeks regular bail in case FIR No. 0006/2024 dated 02.01.2024 registered under sections 406/34 of the Indian Penal Code, 1860 ('IPC') at P.S.: Swaroop Nagar, Delhi ('subject FIR').

2. Notice on this petition was issued *vide* order dated 09.09.2024, pursuant to which Status Report dated 22.10.2024 has been filed on behalf of the State.
3. Nominal Roll dated 24.10.2024 has also been received from the concerned Jail Superintendent.
4. The court has heard Mr. Vishal Bansal, learned counsel appearing on behalf of the petitioner; Ms. Manjeet Arya, learned APP appearing on behalf of the State; as well as Mr. Hariom, learned counsel appearing on behalf of the complainant in the matter at considerable length.



5. Mr. Bansal explains, that as would be seen from a perusal of the subject FIR, the dispute that has led to the registration of the subject FIR relates to a transaction whereby the complainant had sold mustard oil to one M/s. Mittal Trading Company, in lieu of which some monies were due from the said company to the complainant.
6. Learned counsel submits, that the FIR itself narrates that the petitioner had called the complainant and informed him that one Anshul Sood runs a trading company under the name and style of M/s. Mittal Trading Company and was interested in purchasing mustard oil from the complainant.
7. It is pointed-out, that the FIR further narrates that mustard oil was supplied by the complainant against various orders placed; and that the essential dispute is that the purchaser of mustard oil has failed to make payment against the goods received.
8. Mr. Bansal submits, that since there was a money dispute between the complainant and M/s. Mittal Trading Company, Mr. Anshul Sood as ‘proprietor’ of M/s. Mittal Trading Company had furnished to the complainant an affidavit of undertaking dated 31.03.2023, giving account of the goods purchased and returned; and undertaking that the balance amount of Rs. 24,74,845/- is to be paid “... .. *by me and Manish Shukla*” to the complainant within 60 days; and in lieu thereof, the within-named Anshul Sood had also given certain blank signed cheques to the complainant as security towards the amount due. Learned counsel submits, that the name of the petitioner - Manish Shukla - was put in the affidavit without his consent and he



had only signed the affidavit as 'witness' because he was working for M/s. Mittal Trading Company.

9. It is submitted, that other things apart, clearly there was no element of 'entrustment' in the transaction; and therefore, the subject FIR could not have been registered under section 406 IPC.
10. Furthermore, Mr. Bansal argues, that the dispute between the parties is clearly of a civil nature, but has been sought to be given the colour of criminality by registering the subject FIR.
11. In this backdrop, Mr. Bansal submits, that the petitioner has suffered judicial custody for over 06 months since the date of arrest on 24.07.2024, while the proprietor of M/s. Mittal Trading Company - Anshul Sood - has not even been arrested.
12. In these circumstances, learned counsel submits that the petitioner deserves to be admitted to regular bail.
13. On the other hand, Ms. Manjeet Arya, learned APP appearing on behalf of the State opposes grant of bail, submitting that the petitioner and Anshul Sood, acting in concert and connivance, induced the complainant to supply mustard oil against various orders for which invoices were raised; however, the invoices were not honoured and the money due was not paid to the complainant, with the pre-conceived plan of cheating the complainant.
14. Learned APP submits, that though the subject FIR was registered under sections 406/34 IPC, upon completion of investigation, chargesheet has been filed against the petitioner under sections 420/120-B IPC. Ms. Arya also states, that co-accused Anshul Sood has not been arrested since he is absconding and is untraceable.



15. Learned APP further points-out, that the petitioner has 03 other criminal involvements, 02 of which are in similar cases, one in Jhunjhunu, Rajasthan and the other in Ghaziabad, Uttar Pradesh.
16. Mr. Hariom, learned counsel appearing for the complainant has adopted the submissions made on behalf of the State. In addition, counsel submits that in fact it was the petitioner who made the misrepresentations and induced the complainant to supply mustard oil and then failed to make payment. Mr. Hariom argues that both the petitioner and Anshul Sood had the intention to cheat the complainant.
17. On a balance of all considerations, what weighs with the court at this stage, is that the genesis of the subject FIR is clearly a commercial transaction between M/s. Mittal Trading Company and the complainant; and the essential dispute between the parties is that the complainant has not received payment for mustard oil supplied to the said entity. The petitioner is stated to have been an employee of M/s. Mittal Trading Company; and Anshul Sood, the co-accused who is presently absconding, is the proprietor of M/s. Mittal Trading Company. In a matter of this nature, the petitioner has already suffered judicial custody for over 06 months as an under-trial.
18. Besides, whether or not the allegations in the subject FIR, and in particular the ingredients of the offences mentioned in it are made-out, and if so against which of the accused persons, would have to be tested in the course of trial.
19. In the circumstances, this court is persuaded to allow the present petition and admit the petitioner – ***Manish Shukla s/o Sh. Rajesh***



Kumar – to *regular bail* pending trial, subject to the following conditions :

- 19.1. The petitioner shall furnish a personal bond in the sum of Rs.50,000/- (Rs. Fifty Thousand Only) with 01 surety in the like amount from a family member, to the satisfaction of the learned trial court;
 - 19.2. The petitioner shall furnish to the Investigating Officer, a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;
 - 19.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;
 - 19.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial; and
 - 19.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the Investigating Officer in writing.
20. Since the petitioner is facing trial and is therefore appearing before the learned trial court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of regular bail.



21. Nothing in this order shall be construed as an expression of opinion on the merits of the pending trial.
22. A copy of this order be sent to the concerned Jail Superintendent *forthwith*, for information and compliance.
23. The petition stands disposed-of.
24. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 14, 2025

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