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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-8922-2025 (O&M)

Reserved on : 10.03.2025

Pronounced on : 20.03.2025

Ajay Kukreja

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rajiv Kataria, Advocate
for the petitioner.

Ms. Swati Batra, Deputy Advocate General, Punjab.

Mr. H. S. Dhindsa, Advocate and
Mr. Vikas Gupta, Advocate
for the complainant.

MANISHA BATRA, J.

1. This petition has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No. 104 dated 27.08.2024, registered under Sections 406 and 420 of IPC at Police Station Sarabha Nagar, District Ludhiana.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a complaint lodged by complainant Kishore Kumar Saini, proprietor of M/s Kishore International engaged in the business of custom clearing and forwarding agent for import and export consignments, on the allegations that his firm also used to undertake job of sorting, staging, examination, opening, repacking, cartage loading and unloading of international consignments etc. The petitioner, who was proprietor of M/s Shubham Trading Corporation, had business transactions with

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the complainant during the financial years 2019-20, 2020-21 and 2021-22. The petitioner, being the indenter of machinery, had approached the complainant during aforesaid financial years for lending a sum of Rs. 60 Lakhs for purchasing machinery for starting business of manufacturing of shoe upper. He had agreed to repay the loan amount within six months along with interest @ 1.5% per month. The complainant had agreed to the same and an amount of Rs. 60 Lakhs had been given by him to the petitioner during the financial year 2021-22.

3. As per the further allegations, at the time of closing of financial year 2021-22, an amount of Rs. 1,31,74,473/- was found payable by the petitioner, which was carried forward to the next financial year. The petitioner induced the complainant to purchase machinery for manufacturing shoe upper from him by projecting that it was having worth of Rs. 60 Lakhs. On being so induced, as many as 08 machines had been purchased by the complainant from the firm of the petitioner. The petitioner, who had represented that the entire machinery was new and in working condition, had also requested to adjust the amount of machinery for the account of his firm. Subsequently, the complainant came to know that the machinery so given was not only defective but was of much lesser value and the petitioner had induced him to purchase the same with intent to cheat him. Legal notice was served upon the petitioner and thereafter he used some forged and fabricated e-way bills to show adjustment of amount of money borrowed from the complainant with intention to cause further wrongful loss to him. As such, the complainant prayed for taking action in the matter.

4. After registration of the FIR, investigation proceedings were initiated. The petitioner was arrested on 01.12.2024. Investigation has since been concluded and *challan* has been presented. The petitioner had moved an

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application before the learned trial Court for grant of regular bail but the same had been dismissed, vide order dated 30.01.2025.

5. It has been argued by learned counsel for the petitioner that he has been falsely implicated in this case. The dispute between the parties is of civil nature. The complainant and his son have already filed two civil suits against the petitioner, which are pending. No case for commission of offences punishable under Sections 406 and 420 of IPC has been made out. Both these offences are even otherwise antithesis to each other. The petitioner had already paid the entire amount payable by him. The complainant had taken machinery only thereafter. The petitioner is in custody since 01.12.2024. His custodial interrogation is no more required. No recovery is to be effected from him. The subject offences are triable by the Magistrate. Trial is likely to take time. Further detention of the petitioner would not serve any useful purpose. Hence, it is urged that the present petition deserves to be allowed.

6. Status report has been filed by the respondent-State. It is submitted therein and learned Deputy Advocate General, Punjab, assisted by learned counsel for the complainant, has argued that there are serious allegations against the petitioner. He had caused wrongful loss to the complainant with *mala fide* by selling old and defective machinery by showing it to be of much more value than it was actually having. Not only this, he has committed offence of forgery by creating false and fabricated e-way bills. He has caused loss to the tune of Rs. 1,56,74,473/- to the complainant by creating false bills. There are chances of his absconding or intimidating the witnesses, if released on bail. Therefore, it is urged that the petition is liable to be dismissed.

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7. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

8. The petitioner is alleged to have cheated the complainant by inducing him to purchase old and defective machinery on exaggerated price. He is also alleged to have created some forged and fabricated e-way bills. However, on a perusal of the record, it is revealed that the petitioner has not been booked for commission of offence of forgery. Offences under Sections 406 and 420 of IPC are antithesis to each other and, therefore, it is debatable question as to whether both of these offences have been made out against the petitioner or not? The investigation has since been concluded and challan has been presented. Civil litigation in the form of suit for recovery of the same amount, which is subject matter of the present FIR, is already pending. The petitioner is in custody since 01.12.2024. Trial is likely to take time as even charges are yet to be framed. Keeping in view the aforesaid facts and circumstances, I am of the considered opinion that no useful purpose would be served by keeping the petitioner in custody anymore. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing personal and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

9. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

20.03.2025*Waseem Ansari***(MANISHA BATRA)
JUDGE***Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*