

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 30th OF JANUARY, 2023

MISC. CRIMINAL CASE No. 3725 of 2023

BETWEEN:-

RAKESH S/O RAMCHANDRA GHOTA, AGED ABOUT 45 YEARS, OCCUPATION: BUSINESS R/O VILLAGE RAMPURA DIST. NEEMUCH AT PRESENT R/O VIVEKANAND NAGAR MANASA P.S. MANASA DISTT. NEEMUCH (MADHYA PRADESH)

.....APPLICANT

(SHRI RITU RAJ BHATNAGAR, LEARNED COUNSEL FOR THE APPLICANT)

AND

THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH POLICE STATION MANASA DISTT. NEEMUCH (MADHYA PRADESH)

.....RESPONDENTS

(SHRI RANJEET SEN, GOVERNMENT ADVOCATE FOR STATE)

This application coming on for admission this day, the court passed the

following:

ORDER

They are heard. Perused the case diary /challan papers.

2. This is the first application under Section 439 of Criminal Procedure Code, 1973, as the applicant is implicated in connection with Crime No.159/2022, registered at Police Station Manasa, District Neemuch for offence punishable under Sections 420, 406, 467, 468, 471, 409 and 120-B of

IPC.

3. As per the prosecution, on 25.03.2022, a complaint was lodged by complainant Pramod Kumar to the effect that he is having a factory by name of Bhagyashree Food Processing Factory at Industrial Area Manasa which is engaged in the business of purchase of food grains. For his work he had appointed the applicant Rakesh Ghota as his helper. For bringing the goods a vehicle Tata 1109 is used the driver of which was co-accused Sohan Singh who is also the Munim and has been working with him for 7- 8 years on salary of Rs.9,000/- per month. Since 3-4 months the co-accused Rahul Gupta is also working in his factory on salary of Rs.9,000/- per month. Co-accused used to get goods in the vehicle and make the entry in the register. On 05.03.2022 goods were brought which were not duly recorded in the concerning register. Thereafter the complainant investigated the matter and found out that the accused have manipulated the entry and have brought lesser quantity of goods. Similar discrepancies in the earlier transactions were also found. The accused have manipulated the entry in the register and have misappropriated the amount of the complainant in the total sum of Rs.1,45,000/-. On the basis of the complaint lodged by the complainant investigation was commenced during the course of which relevant documents were collected and eventually the applicant has been implicated and arrested for the present offence.

4. Learned counsel for the applicant submits that applicant is innocent and has falsely been implicated in the case. There is no legal evidence to connect him with the present offence. He is not the main accused in the case. His responsibility was only to purchase the goods and loading the same in the vehicle for being transported to the factory. The case is primarily based on documentary evidence which has already been collected by the prosecution. Though the FIR was registered on 25.3.2022 but the applicant has been arrested only on 2.9.2022. Applicant had cooperated during the investigation

and undertakes to cooperate in the trial also. Investigation has been completed and charge sheet has been filed and no recovery has to be made from the applicant hence his further custodial interrogation is no longer required. Similarly situated co-accused Rahul Gupta and Sohan Singh have already been enlarged on bail by this court by order dated 3.1.2023 passed in M.Cr.C.No.57184 of 2022 and M.Cr.C.No.56907 of 2022. On such grounds, prayer for grant of bail to the applicant has been made.

5. The aforesaid prayer has been opposed by the learned counsel for the non-applicant/State submitting that in view of the allegation levelled against the applicant, he is not entitled to be released on bail.

6. I have heard learned counsel for the parties and have perused the case diary.

7. In the written complaint made by the complainant, he has alleged misappropriation of a sum of Rs.1,45,000/- by the accused from his firm. The same is stated to have been done by manipulating the entries in the register and by furnishing wrong information as regards the stock which was brought. The case appears to be based primarily upon documentary evidence and the same is stated to be collected by the prosecution. Applicant has cooperated during the investigation and has undertaken to cooperate during trial. Though the written complaint was made on 25.3.2022 but the applicant has been arrested on 2.9.2022. His further custodial interrogation does not seem to be necessary. Trial is likely to take time for its conclusion. Similarly situated co-accused Rahul Gupta and Sohan Singh have already been enlarged on bail by this court by order dated 3.1.2023 passed in M.Cr.C.No.57184 of 2022 and M.Cr.C.No.56907 of 2022. Thus in my opinion, the applicant deserves to be released on bail.

8. Accordingly, without commenting on the merits of the case, the application filed by the applicant is allowed. The applicant is directed to be

released on bail upon furnishing a personal bond in the sum of **Rs.50,000/-** with one solvent surety of the like amount to the satisfaction of the trial Court for his regular appearance before the trial Court during trial with a condition that he shall remain present before the Court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) Criminal Procedure Code, 1973.

9. This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective. This order shall be subject to the condition that the applicant shall deposit a sum of **Rs.75,000/-** before the trial Court which shall be released in favour of the complainant upon him furnishing solvent surety to the satisfaction of the trial Court.

Certified copy as per rules.

(PRANAY VERMA)
JUDGE

SS/-