

HIGH COURT OF MADHYA PRADESH

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MCRC No.10270/20

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(Lalit Kumar Gandhi Vs. State of M.P.)

Indore, Dated : 21.4.2020

Shri Ayush Jain, learned counsel for the applicant.

Shri Amol Shrivastava, learned counsel for the State.

Shri A.K. Saxena, learned counsel for the objector.

Heard on the question of grant of bail.

This is an application made by the applicant under Section 439 Cr.P.C. for grant of bail during trial.

Notice of this application was served on the State counsel. Case diary as per the direction of this Court has been produced and it has been perused.

The applicant is facing trial for offence punishable under Section 409, 467, 468, 120-B and 427 of the IPC registered with Police Station Talen, District – Rajgarh, in Crime No.376/2019.

The allegation against the applicant is that he had received a sum of about Rs.6,52,00,000/- from the applicant for supply of pesticides and insecticides and as against this he had made the supply worth Rs.4,30,00,000/- only and has not made the supply against the payment of Rs.2,22,50,000/-. Further allegation in the FIR is that though the complainant had approached the applicant for supply of pesticides against remaining payment but the same was avoided and the applicant had also misbehaved with the complainant and by making fabricated invoices and uploading the same on the GST portal, the applicant had committed further offence.

Learned counsel for the applicant submits that the transaction was spread over a period of past three years and

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that the applicant himself had made a complaint at Police Station in Rajasthan on 30.7.2019 alleging that a sum of Rs.1,35,00,000/- is receivable by the applicant from the complainant but no action was taken. He submits that the allegation that the invoices have been fabricated, is incorrect because the invoices have been shown in the GST Return-1, which tallies with GST R-3. He also submits that at the most the applicant has committed offence under Section 132 of the GST Act, which is a bailable offence and that the absence of E-Way Bill is not a conclusive proof of invoices being fabricated or the fact that the supply was not made to the complainant. He has also submitted that the applicant has been kept in the jail wherein Covid-19 infected persons have been found. He has further submitted that the applicant is in custody since 28.11.2019 and the dispute is of civil nature and that applicant has no criminal antecedents.

Learned counsel for the State opposing the application for bail has submitted that the applicant had prepared fabricated and forged invoices without supplying the material and in the GST invoices the particulars of the transport, date of supply etc. have not been mentioned and in some of the invoices date of supply shown is prior to the date of purchase of the goods made by the applicant himself from the other sources. He has also submitted that hard disk has been seized from the applicant and the information extracted from the hard disk does not tally with the ledger kept by the applicant and supports the complainant's version about receipt of money and non supply of goods by the complainant. He has also submitted that the details relating to criminal antecedents of the applicant could not be received

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from Rajasthan because of the lock down put by the Central and State Government due to Covid-19 infections.

Learned counsel for the objector has also opposed the application by submitting that there are no E-Way Bills to show that the supply of material as against the payment of Rs.2,22,50,000/- was made by the applicant. He also submits that all the payments have been made by the complainant to the applicant through Bank by RTGS. He has also referred to the invoices filed as additional documents by submitting that the invoices uploaded by the applicant are bogus as they did not contain details of dispatch etc. and referring to Invoice No.22 he has submitted that this invoice is dated 16.5.2019 but the purchase of this item itself was made by the applicant from the source on 21.5.2019. He has also submitted that when the complainant had approached the applicant for supply, even his vehicle was snatched.

On the query made by this Court that if the applicant is ready to deposit Rs. 1 Crore with the trial Court and secure the remaining amount by furnishing the solvent security, the submission of counsel for the applicant is that the amount of deposit be reduced by 50%.

Having considered the submission made by counsel for the parties and also taking note of the prevailing Covid-19 infection and considering the fact that the applicant is in custody since 28.11.2019 and in the present scenario conclusion of trial is likely to take time and also taking note of the submission of counsel for the applicant in respect of the condition relating to deposit of the amount, it is directed that **the applicant-Lalit Kumar Gandhi will** be released on bail subject to complying with the following conditions;-

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1. Applicant will furnishing a personal bond of **Rs.1 Lac** and **two local sureties** of the like amount to the satisfaction of the Trial Court for his appearance as and when directed,

2. The applicant will deposit Rs.50 Lacs with the trial Court, which will be kept by the trial Court in the Fixed Deposit in a nationalised Bank and he will also furnish solvent security with the trial Court for the remaining amount of Rs.1,72,50,000/-.

3. The applicant will attend each hearing of his trial before the Trial Court out of which this bail arises. Any default in attendance in Court would result in cancellation of the bail granted by this Court.

The M.Cr.C. is accordingly **disposed off**.

Certified copy as per rules.

(Prakash Shrivastava)
Judge

trilok/-