

**In the court of Gurmohan Singh,
Addl. Sessions Judge, Ferozepur (UID No.PB-0573).**

CIS No.BA/191/2022. CNR No.PBFZ010004652022. Date of Order: 04.02.2022.
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Parmod Kumar aged 38 years son of Sukh Lal, permanent resident of Adrepurawa, Banipara Maharaj, Kanpur Dehat, Banipara Uttar Pradesh – 209303.

.....Applicant.

Versus

State of Punjab.

.....Respondent.

Application under Section 438(i) Cr.P.C
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Present: Sh. H.D. Kathpal, counsel for the applicant.
Sh. APS Brar, Addl. Public Prosecutor for the State.

ORDER

Present bail application has been filed by above named accused/applicant under Section 438(i) Cr.P.C. in case in FIR No.152 dated 10.06.2021 under Sections 420/120-B IPC, registered at Police Station City Ferozepur.

2. Notice of the bail application has been issued to the State. Learned Additional Public Prosecutor for the State has appeared. Record has been produced.

3. The learned counsel for the applicant/accused submits that the present FIR has been registered on the basis of false complaint

moved by the complainant. Further submits that no prima facie case is made out against the present applicant/accused persons as no ingredient of Section 420 and 120-B IPC is made out from the contents of FIR. Further submits that the complainant party has admittedly came in contact with the accused company regarding purchase of refurbished CT Scan machine. Further submits that initially said machine has been supplied to the complainant party but due to objection raised by the complainant party, second refurbished CT Scan machine has been sent to the complainant party for installation. Further submits that as the second machine as per complainant party could not work out, then objection has been raised and in the said objection, one objection has been put forward by the Civil Surgeon that the accused company is not entitled to sell the same in State of Punjab. Further submits that thereafter the accused company has given its opinion and willingness to get registered the same in the State of Punjab if the same is basic requirement as earlier the accused company was not aware that for second hand refurbished CT Scan machine, there is requirement of any registration in the State of Punjab. Further submits that as per demand of the complainant party, the entire amount has been returned back in their accounts on 12.03.2021 and 19.06.2021. Further submits that nothing is to be got recovered from the applicant/accused as even machine has also been returned back to the accused company. Further submits that the applicant is mere associate/employee of the accused Company Edge Medical Solutions and has nothing to do with the deal effected between the complainant party with the accused company and false allegation of cheating under conspiracy has been levelled against

him. Learned counsel for the applicant/accused submits that the applicant is ready to join the investigation and thus prays that present bail application be allowed.

4. Learned Additional Public Prosecutor for the State that the present FIR has been registered against the accused/applicant Sanjay Kumar, proprietor of the Company, namely, Edge Medical Solutions, New Delhi and Gunjan Kumar and Parmod Kumar being associates/employees of the said Company, on the complaint of one Tilak Raj. Further submits that Tilak Raj, Kamaljeet Kaur, Beant Singh and Hari Om had established Medicare Diagnostic and Scanning Centre and for the same, they had approached Edge Medical Solutions, New Delhi for purchase of refurbished CT Scan machine. Further submits that Tilak Raj went to New Delhi to see the machine and selected the same and the price of the machine was settled for Rs.43,60,000/-. Further submits that when the applicant/accused Sanjay Kumar visited Ferozepur, then the complainant party gave offer that there is one old machine lying with Beant Singh, which is to be sold out and then applicant/accused Sanjay Kumar got settled the price of second hand machine of Beant Singh for Rs. 8 Lacs and the remaining amount of Rs.35,60,000/- was paid by complainant Tilak Raj and other partners through their account in favour of Sanjay Kumar, proprietor of Edge Medical Solutions. Further submits that when first refurbished CT Scan machine has been installed at the place of complainant party, then the same has been found to be defective by the officials of Civil Surgeon, Ferozepur and the same has been brought to the notice of the accused party and to the same, the accused party got another

refurbished CT Scan machine sent to Ferozepur to the complainant party for getting the same installed. Further submits that when the said machine has been installed at the place of the complainant party and while installing the said machine, office of Civil Surgeon has raised objection regarding defect in the same again and even fact of two stickers and serial number on the same. Further submits that Chairperson, District Appropriate Authority, P.C.P.N.D.T cum Civil Surgeon, Ferozepur has sent notice through e-mail to the accused company regarding the same. Further submits that thereafter the accused company sent two office representatives , namely, Kunal and Atul at Ferozepur and the deal was struck between the complainant party and the accused party and cheques have been given for the amount, which has been taken by the complainant party. Further submits that thereafter cheques have been dishonoured. Further submits that it is the fact that the applicant/accused has thereafter paid amount in the accounts of Beant Singh, Hari Om, Renu and Kamaljeet Kaur and the machine has been handed over to them but the accused persons have caused huge loss to the complainant party and even has intentionally committed offence of cheating under conspiracy despite of the fact that the accused party was well aware that they were not authorized to sell refurbished CT Scan machine in the territory of Punjab. Further submits that the applicant/accused is the associate/ employee of the accused company and has dealt with the complainant party on each and every aspect regarding the deal of CT Scan machine and was very well aware about the acts of the accused company and

thus the applicant/accused does not deserve concession of anticipatory bail.

5. After hearing learned counsel for the applicant/accused, learned Additional Public Prosecutor for State and perusal of record, it reflects that the present FIR has been registered on the statement of complainant Tilak Raj being made to the S.S.P., Ferozepur on 25.03.2021. It is the fact that the present FIR has been registered on 10.06.2021 after detailed inquiry conducted by D.S.P. concerned. As per complainant's version, deal was between the complainant party and Edge Medical Solutions, New Delhi regarding purchase of refurbished CT Scan machine. Further record reflects that said deal has been struck between the parties for Rs.43,60,000/- in the month of September, 2020 and out of the said amount, Rs.35,60,000/- has been paid by the complainant party to the accused party as Rs.8 Lacs has been settled on the basis of second hand CT Scan machine being sold by partner Beant Singh to the accused party Edge Medical Solutions, New Delhi. Further record reflects that Rs.35,60,000/- has been duly paid by the complainant party through its partners in the year 2020 and one refurbished CT Scan machine has been sent to Ferozepur at the place of the complainant party i.e. Medicare Diagnostic and Scanning Centre. It is the fact as alleged by the complainant that to get the said CT Scan machine installed, requisite permission from Chairperson, District Appropriate Authority, P.C.P.N.D.T cum Civil Surgeon has been taken. Further record reflects that the said refurbished CT Scan machine was installed on the saying the complainant party by the officials of Civil Surgeon, Ferozepur at the place of the complainant

party but the same has been found to be defective and thereafter intimation has been sent to the accused party Edge Medical Solutions and once again, second hand refurbished CT Scan machine has been sent by the accused company at the place of the complainant. Further, the same has also been installed by the officials of the office of Civil Surgeon, Ferozepur at the place of the complainant, but the same was also found to be defective and could not run. As per accused party, the said machine has been got purchased from Jalandhar and thereafter sold to the complainant party. From the record, it is reflected that there is one letter dated 19.02.2021 sent by Chairperson, District Appropriate Authority, P.C.P.N.D.T cum Civil Surgeon, Ferozepur to the accused party Edge Medical Solutions regarding objection raised qua to the registration of the accused company with the State of Punjab for selling said refurbished CT Scan machine in the territory of Punjab. To the said fact, learned counsel for the applicant/accused has replied to the objection and has submitted that as the same was second hand refurbished CT Scan machine, so, the applicant/accused was not aware regarding requirement of registration in the State of Punjab. Learned counsel has specifically pleaded that no objection was raised at the earlier time when first machine was installed. Further record reflects that when the deal could not be done due to objection raised by Chairperson, District Appropriate Authority, P.C.P.N.D.T cum Civil Surgeon, the accused party has called the machine back and employees of the accused company has been sent to Ferozepur. Further, it is the fact that now the position is that amount of Rs. one lac on 12.03.2021, Rs. 2.5 Lacs on 12.03.2021 and Rs.3.25 lacs on 16.06.2021 has been

paid by the accused company in the account of Beant Singh, Rs.9.75 lacs on 16.06.2021 in the account of Renu, Rs. 8 lacs on 16.06.2021 in the account of Kamaljeet Singh, Rs.8,10,000/- in the account of Hari Om on 16.06.2021, Rs. 8 Lacs on 16.06.2021 in the account of Tilak Raj has been paid and even machine has been taken back by the accused company. The applicant/accused is associate/employee of the accused Company and this fact has been admitted by learned Addl. Public Prosecutor. Thus, at this stage, without commenting anything on merits of the case and taken into consideration the entire facts and circumstances of the case and the fact that the applicant/accused is mere employee/associate of the accused Company, as admitted by learned Addl. Public Prosecutor and further the fact that the machines are back with the accused company and even amount paid by the prosecution to the accused company has also been returned back as is reflected from the account statement attached with the bail application and even admitted by the complainant party, this court is of the opinion that it is a fit case, where the applicant/accused is entitled for interim bail as it is the matter of trial to be proved during evidence regarding intention of committing cheating under conspiracy. Accordingly, the applicant/accused is directed to join the investigation on 09.02.2022 at 11.00 a.m. before the Investigating Officer/SHO and in the event of his arrest, he shall be admitted to the interim bail to the satisfaction of the investigation officer, with the following conditions :-

- (i) the applicant shall make himself available as and when required by the Investigating Officer;

- (ii) the applicant shall not induce/threat any of the prosecution witness or tamper with the evidence in any manner;
- (iii) the applicant shall not leave India without prior permission of the trial court.

6. The Investigating Officer is directed to submit his report on 10.02.2022.

Dated : 04.02.2022.

anil kumar

Stenographer Grade-II

sd/-

(Gurmohan Singh)

Add. Sessions Judge, Ferozepur.