

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-5294 of 2015 (O&M)

Date of Decision: 01.03.2017

Siddharth Sikri

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Gautam Dutt, Advocate
for the petitioner.

Mr. Vikramjit Singh, Addl. A.G., Haryana.

Mr. Ajay Jain, Advocate
for the complainant.

SURINDER GUPTA, J.

The present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case FIR No. 129 dated 09.06.2014 registered for offences punishable under Sections 420, 406, 467, 468, 471 read with Section 120-B of Indian Penal Code (for short 'IPC'), at Police Station Sector 31, Faridabad.

Report from the Mediation and Conciliation Centre of this Court has been received that the complainant did not join the mediation proceedings.

Heard.

The dispute in this case pertains to purchase of 106.304 MT of aluminium scrap by the complainant through M/s Sage Global of which the petitioner is a proprietor. The material was purchased from M/s Glints Global Pvt. Ltd. having its office at Singapore. The consignment was sent from Melbourne, Australia to India. On inspection, the material sent was

found as old and used iron scrap with one old damaged car. When the petitioner was confronted with this fraud he promised to refund the money received by him. The consignment is still lying with the customs at the shipyard.

Learned counsel for the petitioner submits that the petitioner is only an agent through whom material was purchased by the complainant. Payment made by the complainant was sent to the consignor and after arrival of the consignment joint inspection was carried out with complainant and it was found that instead of sending the aluminium scrap, consignor has sent the iron and rubber scrap. The matter was taken up with consignor and complainant was kept informed by the petitioner throughout. Out of the amount received from the consignor ₹84,50,000/- has already been paid to the complainant out of the total amount of ₹1,10,00,000/-. The petitioner neither has *mens rea* nor any crime was committed by him.

Learned counsel for the complainant submits that the entire purchase of aluminium scarp was made through petitioner and the complainant had made payment of ₹1,10,00,000/- to him. Even after receipt of major amount from the consignor the petitioner did not pay the same to the complainant.

Learned counsel for the petitioner submits that the petitioner is ready to sit with the complainant and resolve the matter. To cover the shortfall in payment received by petitioner from consignor and payment made to petitioner, he is ready to make payment of ₹10 lacs in addition to ₹84,50,000/- already paid but the complainant is not coming forward to resolve the matter. He had not even appeared before the Mediation and Conciliation Centre of this Court where the matter was taken up on

28.02.2017.

Keeping in view the fact that the petitioner has played a pivotal role not only in purchase of aluminium scrap by the complainant from M/s Glints Global Pvt. Ltd., Singapore, but has also taken up the matter with the supplier after it was detected that the consignment was having iron scrap and had returned ₹84,50,000/-, is also ready to pay ₹10 lacs more and is willing to settle the entire dispute with the complainant, I find it to be a fit case to extend the benefit of pre-arrest bail to the petitioner.

In view of above, this petition is allowed and order dated 16.02.2015 is made absolute till the presentation of challan, subject to the following terms:-

- (i) that the petitioner will pay ₹10 lacs to the complainant within a period of two weeks from today and will assist him in resolving the entire dispute. In the event of payment of ₹10 lacs being not made within two weeks of receipt of copy of this order, this bail order shall stand withdrawn;
- (ii) that the petitioner shall make himself available for interrogation by the police as and when required;
- (iii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iv) that the petitioner shall not leave India without the prior permission of the Court.
- (v) that the petitioner will seek regular bail on the presentation of challan in Court.

March 01, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No