

CRM-M-14169-2020 (O&M)

Date of decision: 18.08.2020

Rohitash singh

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. Sarfraj Hussain, Advocate
for the petitioner.Mr. B.S. Virk, DAG, Haryana
for the respondent-State.**FATEH DEEP SINGH, J.(ORAL)**

Due to outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

The petitioner/accused-Rohitash Singh has come up in this first anticipatory bail under Section 438 Cr.P.C. in a case bearing FIR No.346 dated 23.12.2019 under Section 406 of the Indian Penal Code registered at Police Station Sector 37 Gurugram.

The brief allegations brought to the notice of this Court are a written contract was entered between the company of the petitioner/accused, namely, M/s R.K. Construction Company and B.S. Scaffolding Company, being run by the complainant and whereby, the complainant was to provide shuttering material to

facilitate construction of the accused sites. The complainant alleges that from July, 2019 to December, 2019, he had provided 2570 iron plates, 2845 prop jacks, 460 channels, 2100 scaffolding stand, lazer, Chali *et cetra* and, thereafter, the accused failed to repay the charges leading to the registration of the present case.

Learned counsel for the petitioner *inter alia* contends that it was a cross civil dispute between the two companies which has given a tinge of criminality and that the enforcement of the contract is the only way out for the petitioner.

The learned State counsel though does not displace the facts but has strongly opposed the grant of bail on the grounds of heinousness of offences and that the recovery of articles are yet to be made.

Appreciating the submissions, there is wafer thin margin between criminality and civil right over breach of contract in such a dispute. Admittedly, the parties have entered into a written agreement for supply of articles and thus, it would be only at the trial, criminal culpability of the accused would be decided and his joining investigation would suffice the purpose. It would be travesty of justice to send the petitioner behind the bars, thus, culpability, if any, shall be determined at the time of trial.

Accordingly, the petitioner is directed to appear before the investigating officer/Magistrate within a period of 15 days from the date of receipt of certified copy of this order and on his doing so, he

shall be released on bail to the satisfaction of the arresting/investigating officer till submission of report under Section 173 Cr.P.C. (challan). The petitioner shall continue to join investigation and shall furnish an undertaking that he shall abide by the conditions specified under Section 438 (2) Cr.P.C. Thereafter, he will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The petition stands disposed off accordingly.

18.08.2020
Neha

(FATEH DEEP SINGH)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No