

205

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-2033-2021

Date of Decision: 19.08.2021

Manpreet Singh @ Montu

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Preetinder S. Ahluwalia, Advocate for the petitioner.

Ms. Monika Jalota, Deputy Advocate General, Punjab.

Mr. Veneet Sharma, Advocate for the complainant.

AVNEESH JHINGAN, J (Oral):

[1] The matter is taken up for hearing through video conference due to COVID-19 situation.

[2] This petition is filed for grant of anticipatory bail in F.I.R. No. 205, dated 25th December, 2020, under Section 406 of IPC, registered at Police Station Division-E, District Police Commissionerate, Amritsar.

[3] The F.I.R. was registered at the instance of Gaurav Verma. There was dispute between the petitioner and the complainant for taking gold around 1570 grams, for abusing and causing loss. On 15th January, 2021, following order was passed:-

"FIR was lodged on the complaint of

Gaurav Verma stating that he does gold related work in his factory located in Guru Bazar. It was alleged that Manpreet Singh Mottu (petitioner) is his manager who used to go out for selling his material. In recent months, out of the material sold by the petitioner 1300 gram gold is to be taken from him. Around 8 days earlier the petitioner took jewellery of around 1570 gram saying that he was going out and promised to return the earlier 1300 gram gold when he came back. Thereafter, complainant came to know that petitioner had not gone out. He neither returned the earlier gold but kept the 1570 grams of jewellery as well. When the complainant called petitioner on phone and sought account and demanded back the material then he threatened him saying that he will kill himself if the material was demanded back.

Mr. Preetwinder Singh Ahluwalia Ld. Counsel for the petitioner has argued that the allegations in the FIR are totally false. Contrary to what was alleged in the FIR about the petitioner being the Manager working with the complainant, the petitioner and the complainant were in fact partners. This fact had come up in the police enquiry . It was also evident from the agreement Annexure P-2 which was entered into between the petitioner and the complainant in the presence of the office bearers of the Swarankar Association. He relies on a decision of Hon'ble Supreme Court in Velji Raghavji Patel Vs. State of Maharashtra AIR 1965 SC 1433 to contend that the petitioner and the complainant being partners the offence under Section 406 IPC is not made out.

He argued that the petitioner has already given Rs. 1500000/- to complainant in the presence of respectables. An agreement dated 19.3.2020 (Annexure P-2) was entered into between parties subsequently wherein it was agreed that the petitioner would give an amount of Rs. 3000000/- (thirty lakhs) to the complainant. The amount would be in 4 installments. The first cheque would be of Rs. 10 lakhs, the second of Rs. 5 lakhs, the third of Rs.10 lakhs and the fourth of Rs. 5 lakhs. On encasement of the first cheque or on receipt of the first instalment of Rs.10 lakh in cash the complainant was to give the petitioner the slip with regard of the account of the business of the complainant. The petitioner would be able to do its transactions. It was specifically provided that the ownership with regard to the transactions outside

Amritsar with regard to 550 grams of pure gold will be of the complainant. The complainant was to help the petitioner in case there was any difficulty. It was also agreed that if any loss was incurred both the parties would bear the loss equally. Ld. Counsel stated that the petitioner was willing to abide by the agreement but the complainant was not adhering to its terms.

Notice of motion

Mr. Sarbjit Singh Cheema, AAG Punjab accepts notice on behalf of respondent State.

Adjourned to 26.3.2021.

In the meanwhile, in the event of arrest of petitioner, he shall be released on interim anticipatory bail to the satisfaction of Arresting Officer/Investigating Officer. He will join investigation as and when called for and cooperate in same. He will abide by conditions of Section 438 (2) Cr.P.C.”

[4] Learned counsel for the petitioner submits that the petitioner has joined in investigation but recovery of money and gold is yet to be made.

[5] Though the complainant has not been impleaded as a party, Mr. Veneet Sharma, Advocate appears on his behalf. He vehemently opposes the prayer for grant of bail and submits that recovery of gold and money is yet to be made. The agreement entered into by the parties has not been adhered to by the petitioner. He further submits that petitioner was employee of the complainant and not the partner.

[6] Learned counsel for the petitioner submits that it was a partnership concern and the dispute relates to settlement of accounts and is purely of civil nature. He relies upon agreement annexed with the petition to state that it was a partnership concern.

[7] The petitioner has joined the investigation. It is a disputed

question of fact that as to whether petitioner and complainant were partners or there was a employer-employee relationship. Non-adherence to the agreement itself cannot be a ground for custodial interrogation. The criminal proceedings cannot be used for execution purpose only.

[8] Without commenting upon the merits of the case, the interim bail granted to the petitioner is made absolute.

[9] The petition is allowed.

[AVNEESH JHINGAN]
JUDGE

19th August, 2021
pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |