

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

**Criminal Misc. No.M-5185-2021(O&M)
Date of Decision: August 26, 2021**

Vivek Kumar Jaiswal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Ramnish Puri, Advocate for
for the petitioner.

Mr.Vishal Malik, DAG, Haryana.

Mr.A.S.Talwar, Advocate for the
complainant.

(Through Video Conferencing)

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HARINDER SINGH SIDHU, J.

This petition has been filed under Section 439 Cr.P.C for grant
of bail in case FIR No.267 dated 28.09.2020 under
Sections 406/420/467/ 468/471/506/120B IPC, registered at Police Station
DLF Phase III, Gurugram.

The allegations in the FIR registered on the complaint of Rajat
Luthra, designated Market Procurement Leader, Philips India Ltd, are that
certain vendors of M/s Phillips India Ltd entered into a criminal conspiracy
with former and serving employees of the said Company (M/s Phillips India
Ltd) and under the said conspiracy, they prepared fake invoices for such
services which in fact were never requisitioned by M/s Phillips India Ltd and
raised bills in furtherance of the said invoices and said bills were cleared in

collusion with serving officials of M/s Phillips India Ltd and payments were made to the vendors on behalf of M/s Phillips India Ltd for the services which were never rendered, thereby causing wrongful loss to M/s Phillips India Ltd and wrongful gain to the persons named as accused in the FIR. The alleged misappropriated and embezzled amount had been estimated to be Rs.8 crores for the period 2019-20 and even prior thereto.

Ld. Counsel for the petitioner has stated that Vivek Kumar Jaiswal – petitioner was an employee of M/s Philips India Limited. He joined as Market Procurement Manager in September, 2019. It is further stated that the petitioner, whose job was to approve the payment orders, allegedly received Rs.31.5 lacs in cash from Anuj Gureja and Gaurav Sehgal. It is the case of the petitioner that the said amount was returned by the petitioner to M/s Philips India Limited on 24.07.2020 and the FIR was registered about two months thereafter. It is argued that in fact the petitioner was the person, who blew the lid over the crime and returned the entire amount of Rs.31.5 lacs to the complainant Company.

It is the agreed case of the petitioner and the complainant that now a Memorandum of Understanding dated 07.07.2021 has been executed between the accused and the complainant Company i.e M/s Phillips India Ltd on the other hand. Although the said MOU is with the complainant but as per the said MOU, whole dispute which is the subject matter of the aforesaid FIR (Annexure P.1) has been duly settled for an amount of Rs.19 Crores and out of the said amount of Rs.19 Crores, accused persons have already paid an amount of Rs.14.30 Crores through demand drafts, which comes to little over 75% of the total settled amount of Rs.19 Crores to the

complainant Company and with regard to remaining amount i.e Rs.4.70 Crores, postdated cheques have been handed over to the complainant Company which would be exchanged with the demand drafts at the time of recording statements during the proceedings, which shall be initiated within a period of 30 days from the date of entering into the aforesaid MOU, so as to seek quashing of the FIR.

Ld. counsel for the petitioner state that the case is purely based on documentary evidence, which is already in the possession of the Police. The petitioner is in custody since 14.10.2020, except for six weeks when he was allowed interim bail to take care of her unwell pregnant wife in March/April, 2021.

Keeping in view the above facts and circumstances, particularly, the amicable settlement between the parties as also the fact that the trial of the case may be delayed due to Covid-19 situation, both the petitions are allowed. The petitioner Vivek Kumar Jaiswal is ordered to be released on bail subject to their furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

August 26, 2021

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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No