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

CRM-M-15794-2021

Date of decision : 11.01.2022

Abhishek Jain

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Keshav Pratap Singh, Advocate for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.31 dated 03.03.2021 registered under Section 420 of the Indian Penal Code, 1860 at Police Station City Khanna, District Khanna.

On 09.04.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

“Learned counsel for the petitioner, inter-alia, contends that the petitioner herein has been falsely implicated in the instant FIR. It is submitted that in fact the FIR is not maintainable as the dispute alleged therein is purely of commercial nature. It is submitted that there is an agreement entered between the parties, wherein it is

provided that in case any dispute arising inter-se the parties, the matter would be referred to an Arbitrator. It is also argued that though a legal notice had been served on 23rd October, 2020, invoking the arbitration clause on account of the dispute that has arisen under the said agreement, but the complainant did not respond. It is also submitted that in fact the complainant owe an amount of ₹63 lakhs on account of the work done.

Notice of motion.

Ms. Samina Dhir, DAG, Punjab, who is present through the medium of video conferencing, accepts notice on behalf of the respondent— State and seeks time to file reply.

Issue notice to respondent No.2 for 7.10.2021.

Meanwhile, the petitioner is directed to join the investigation within a period of one week and on his doing so, in the event of arrest the petitioner be released on interim bail to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

9.4.2021

Sd/-[JAISHREE THAKUR]

JUDGE ”

Learned counsel for the petitioner has submitted that in pursuance of the abovesaid order dated 09.04.2021, the petitioner has joined the investigation.

Learned counsel for the State, on instructions from ASI Shingara Singh, has submitted that the petitioner has joined the investigation and an amount of Rs.27,00,000/- is still to be recovered from the petitioner.

Keeping in view the facts and circumstances as noticed in the abovesaid order dated 09.04.2021 moreso to the effect that the present dispute is purely commercial dispute and there is an arbitration clause provided in the agreement between the parties and legal notice had been served by the petitioner on 23.10.2020 invoking the arbitration clause on account of the dispute which has been arisen between the parties and as per the case of the petitioner, it is the complainant who owes the petitioner an amount of Rs.63,00,000/- on account of work done and also the fact that the complainant has already filed a complaint before the Consumer Forum and the fact that the petitioner has joined the investigation and the criminal proceedings cannot be initiated in order to recover the money which as per the petitioner is not due from him and regarding which, he had legitimate right to agitate before the Arbitrator or other Judicial Forum by further leading his evidence and after having given an opportunity to examine and cross-examine the alleged witnesses, the present petition is allowed and the interim order dated 09.04.2021 is ordered to be made absolute.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

11.01.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**