

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

203

CRM-M-16664-2021

Date of Decision : **September 06, 2022**

SUDHIR KUMAR BERI

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Vinay Puri, Advocate for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Ms. Tejaswini, Advocate for the complainant.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.122 dated 30.3.2021 under Sections 406, 420, 467, 468, 471 IPC, registered at Police Station Ambala Cantt. District Ambala.

It has been submitted by the learned counsel for the petitioner that this Court while issuing notice of motion on 16.4.2021 had granted interim bail to the petitioner and in pursuance of the same, the petitioner has already joined the investigation and he has also fully co-operated with the investigation process and, therefore, he has prayed that the aforesaid order may be confirmed. He further submitted that thereafter during the pendency of the present petition, this Court vide order dated 12.7.2021 directed the parties to appear before the Mediation and Conciliation Centre of this Court and in pursuance thereof the parties had appeared before the Mediation and Conciliation Centre and thereafter

an agreement/settlement was arrived at between the parties with regard to the dispute. He submitted that the total subject matter of the dispute was approximately Rs.4,37,000/- and by way of agreement time frame was also fixed but thereafter the petitioner suffered brain hemorrhage due to which he could not pay any amount to the complainant. He submitted that now the petitioner has slightly recovered from the brain hemorrhage and has brought demand draft of Rs.1 lac in favour of the complainant. The said demand draft has been handed over to the learned counsel for the complainant in the Court today. A photocopy of the aforesaid demand draft has also been supplied to the Court which is taken on record as mark X.

On the other hand, the learned State counsel has submitted that it is correct that the petitioner in pursuance of the interim bail granted by this Court has already joined the investigation. He further submitted that, however, the amount has not been paid by the petitioner to the complainant and even as per the allegation there was forgery of one bill which was sent by the petitioner to the complainant on WhatsApp.

Learned counsel for the complainant has submitted that it is correct that before the Mediation and Conciliation Centre, an agreement was arrived at between the parties. However, the petitioner failed to pay the amount as agreed between the parties but today he has handed over a demand draft of Rs.1 lac to her in the Court. She has opposed the grant of bail to the petitioner on the ground that remaining amount of Rs.3,37,000/- is still to be recovered from the petitioner.

I have heard the learned counsels for the parties.

In pursuance of the order dated 16.4.2021, the petitioner has already joined the investigation. A perusal of the FIR would show that apparently the matter pertains to breach of contract and the entire subject matter as per the learned counsels for the parties pertains to only Rs.4,37,000/- out of which Rs.1 lac has been paid today by way of a demand draft. The learned counsel for the petitioner during the course of arguments has submitted that the petitioner suffered brain hemorrhage due to which he could not pay the amount and still as a bonafide he has paid Rs.1 lac in the Court. The petitioner admittedly has already joined the investigation. It is a settled law that anticipatory bail cannot be denied to an accused only on the ground that the police or the complainant was not able to make recovery of money since the police is not expected to be a recovery agent. Apart from the same, as per the learned counsel for the petitioner, the petitioner has already suffered brain hemorrhage attack and, therefore, in view of the peculiar circumstances there is no ground for denial of bail to the petitioner.

Consequently, the present petition is allowed and order dated 16.4.2021 is, hereby, made absolute.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

September 06, 2022
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(JASGURPREET SINGH PURI)
JUDGE

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