

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

Date of Decision:-02.06.2022

CRM-M-22952-2022

Subash Chander Dhir.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

AND

CRM-M-23097-2022

Seema Dhir.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. R.S. Rai, Senior Advocate assisted by
Mr. S.P.S. Aulakh, Advocate for Petitioner
(in both the petitions).

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

Mr. Akshay Bhan, Senior Advocate assisted by
Mr. GPS Ghuman, Advocate for the Complainant.

JASJIT SINGH BEDI, J. (ORAL)

By this common order I shall dispose of both the
aforementioned petitions as the same have arisen out of one and the same

FIR.

2. The Prayer in the petitions is for the grant of regular bail under Section 439 Cr.PC in case FIR No.133 dated 05.05.2022 under Sections 406, 420, 120-B IPC registered at Police Station Mandi Gobindgarh, Fatehgarh Sahib, Punjab.

3. The allegations in the FIR in brief are that the complainant company has supplied material i.e. Metal Scrap to three firms/companies controlled by the petitioner and family i.e. (i) DS Metals (Proprietorship), (ii) D.D. International Global, (iii) MD International. It is alleged that material worth USD 26,18,034.97 was supplied from 2016 to 2019 and against that a payment of only USD 5,52,862.42 was paid to the complainant company. Thus an amount of USD 20,65,172.55 was due as principal amount and USD 10,53,238 was due as interest from the accused firms. Effectively, the allegations are that material had been supplied by the Sharjah based complainant company to the companies/firms controlled by the petitioner and family but the complete payment for the material supplied has not been made and, therefore, the accused have committed offences under Sections 406 and 420 IPC.

4. The learned Senior Counsel for the petitioner contends that a reading of the FIR does not reveal any offence having been committed under Sections 406 and 420 IPC. A purely civil dispute has been given the colour of a criminal offence and a recovery is sought to be effected using the coercive process of criminal law. In fact a suit for rendition of accounts/recovery ought to have been filed. He further submits that there is nothing to suggest in the FIR that there was any dishonest intention at the very inception of the agreement between the parties and subsequent breach

of the terms of the agreement, if at all, would not amount to the commission of any offence. Even otherwise, the question of an offence having been committed under Section 406 IPC would not arise in the absence of any entrustment.

The learned Senior Counsel submits that the petitioners are the parents of Saakshat Dhir who alone manages the day to day affairs of these entities. The petitioners have been implicated only to pressurize their son Saakshat Dhir to settle with the complainant. In fact as per the complaint dated 23.03.2022 the operation of the business was not the responsibility of the petitioners. He contends that the petitioner Subash Chander Dhir had infact joined the inquiry before the registration of the FIR on 14.04.2022 and 16.04.2022 and also met the police officials on 29.04.2022 and has shown the accounts which fact is duly mentioned in the FIR.

He further submits that petitioners are not a flight risk or in a position to tamper with the evidence or influence any witnesses and this fact alone entitles the petitioners to the grant of bail. He lastly refers to the order of this Court in case bearing **CRM-M-21769-2022(O&M)** titled as ***Shradha Dhir Vs. State of Punjab and CRM-M-21816-2022(O&M)*** titled as ***Saakshat Dhir Vs. State of Punjab*** whereby this Court has passed an order on 20.05.2022 that no coercive steps of arrest be taken against the petitioners.

5. On the other hand, the learned State Counsel has vehemently contended that it is a case wherein, Saakshat Dhir managing 3 companies DS Metal, M/s DD International Global and M/s MD International, obtained supply of material worth USD 26,18,034.97 from 2016 to 2019 and paid just USD 5,52,862.45 till date and an amount of USD 20,65,172.55 still

remains to be paid and there is conspiracy *inter se* the accused to cheat the complainant. Since a huge amount is involved, therefore, the petitioners were not entitled to the grant of regular bail.

6. The learned Senior Counsel appearing on behalf of the complainant vehemently submits that the petitioners have as much of a role to play as their son Saakshat Dhir and daughter in law Shradha Dhir. In fact an attempt is now being made to distance themselves from the affairs of the main accused and their son Saakshat Dhir. A perusal of the FIR itself shows that the accused persons had a dishonest intention at the very inception to cheat the complainant party and as such they were not entitled to the grant of regular bail as a huge recovery of approximately Rs.24 Crores is to be effected from them.

7. I have heard learned Counsel for the parties at length.

8. Admittedly, the petitioners are said to be aged 72 years and 64 years respectively. They have clean antecedents and no other FIR stands registered against them. In case of their co-accused Saakshat Dhir and Shradha Dhir, this Court has already passed an interim order that no coercive steps of arrest be taken against them. The petitioners are in custody since 06.05.2022, post the registration of the FIR on 05.05.2022 and therefore, their further incarceration is not required.

9. Keeping in view the aforesaid facts, but without commenting on the merits of the case, the present petitions are allowed and the petitioners-**Subash Chander Dhir** son of K.C. Dhir and **Seema Dhir** wife of Subhash Dhir are ordered to be released on bail subject to their furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned. Further petitioners shall abide by the

following conditions:-

- “1. *The petitioner will not tamper with the evidence during the trial.*
2. *The petitioners will not pressurize/intimidate the prosecution witness(s).*
3. *The petitioners will appear before the trial Court on the date fixed, unless their personal presence is exempted.*
4. *The petitioners shall not commit an offence similar to the offence of which they are accused of, or for commission of which they are suspected.*
5. *The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer or tamper with the evidence.*
6. *The petitioners shall surrender their passports before the Trial Court immediately and they shall not travel abroad, without taking prior permission from the Trial Court.*

If the petitioners indulges in similar offence for which they are currently charged, the State would be at liberty to move an application for cancellation of their bail.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

June 02, 2022

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>