

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(208)

CRM-M-39723-2021

Date of decision: - 25.08.2022

Amit Garg

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rajesh Gupta, Advocate,
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

Mr. Arun Kumar Gupta, Advocate
for the complainant.

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.359 dated 02.09.2021, under Sections 406, 420 and 506 of the Indian Penal Code, 1860, registered at Police Station Baldev Nagar, District Ambala.

Learned counsel for the petitioner has submitted that the present case has civil tappings and the civil dispute has been sought to be given a criminal flavour by the complainant. It is further submitted that the goods, which were supplied by the complainant party, were defective and the petitioner would be able to *prima facie* prove the same in civil proceedings. It is also submitted that the petitioner has already paid a sum

of Rs.25,000/- to the complainant, as reflected in the order dated 01.02.2022 and has even tried his best to resolve the case during the mediation proceedings, but no final settlement has been arrived at. It is stated that two cheques have been referred to in the FIR and on the said cheques, it has been specifically mentioned "Not for clearance in the account", but the same are security cheques. Learned counsel for the petitioner has submitted that the petitioner was granted interim protection vide order dated 06.10.2021 and till today, the petitioner has never misused the said concession.

Learned State counsel has submitted that although, the petitioner has joined the investigation, but no money has been recovered as yet and even the cheques in question which had been given by the petitioner were given in the name of the wrong firm.

Learned counsel for the complainant has submitted that the plea raised by the petitioner with respect to the material supplied by the complainant being defective is false, inasmuch as, it was never pointed out by the petitioner that the said goods are defective and he had never even requested the complainant to replace the same, thus, the petitioner does not deserve the concession of anticipatory bail.

This Court has heard learned counsel for the parties and has gone through the paper-book.

The Co-ordinate Bench of this Court had granted interim protection to the petitioner vide order dated 06.10.2021 and it had been recorded in the order dated 01.02.2022 that the petitioner had made part payment of Rs.25,000/- to the complainant, out of the total amount of

Rs.5,16,000/- and the matter was also referred to Mediation and Conciliation Centre, but compromise in the same could not be fructified. The present case has civil tappings and the question as to whether the goods supplied by the complainant party were defective or not would be finally adjudicated during the course of trial and the entire case is based on documentary evidence, thus, the petitioner is not required for further custodial interrogation, the present petition is allowed and the interim order dated 06.10.2021 is ordered to be made absolute.

However, nothing stated above shall be construed as a final 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.

August 25, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No