

DAVINDER SINGH **...PETITIONER**
VERSUS

2) CRM-M-1882-2021

STATE OF PUNJAB

VERSUS

...RESPONDENT

DARSHAN SINGH **...PETITIONER**
VERSUS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Mr. N. K. Manchanda, Advocate for the complainant.

VIVEK PURI,J. (ORAL)

2. In CRM-M-385-2021, On 07.01.2021, the following order was passed by the Co-ordinate Bench:-

RENU BALA
2023.04.19 14:28
I attest to the accuracy and
integrity of this document

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to have been dishonoured regarding which the complainant had served notice upon the concern and its partners before filing of the complaints and petitioner is not mentioned to be one of the partners there and at best it is a case of bouncing of the cheques coming within mischief of Section 138 of Negotiable Instruments Act, regarding which complaints can be filed against the concern and its partners and not against the petitioner. He further contended that the petitioner is ready and willing to join the investigation.

Notice of motion.

Mr.J.S. Ghuman, DAG, Punjab, accepts notice on behalf of the respondent State. Mr.N.K. Manchanda, Advocate has also appeared on behalf of the complainant and he has contended that the petitioner is a silent partner of the concern and he has further contended that under the circumstances complaint under Section 138 of Negotiable Instruments Act can be filed and FIR can also be got recorded. He has referred to judgment Sangeetaben Mahendrabhai Patel Versus State of Gujarat and another, 2012(2) RCR(Criminal)757 in support of that contention.

After hearing the rival contentions, I find it a fit case to grant interim bail to the petitioner. As such, the petitioner is directed to join the investigation by contacting the Investigating Officer within seven days from today and render all sort of co-operation. The petitioner is to surrender his passport before the Investigating Officer, if he has got one, otherwise to furnish affidavit in that regard. If in the meanwhile, he is arrested, he be released on bail to the satisfaction of the Investigating Officer/Arresting Officer. Adjourned to 22.2.2021.”

3. In CRM-M-1882-2021, On 14.01.2021, the following order was passed by the Co-ordinate Bench:-

“Learned counsel for the petitioner states that the petitioner is ready and willing to settle the dispute with the complainant.

Notice of motion.

Mr.J.S. Ghuman, DAG, Punjab, accepts notice on behalf of the respondent-State. Sh.N.K. Manchanda, Advocate has appeared on behalf of the complainant.

Learned State counsel and counsel for the complainant may file detailed reply to the petition on the adjourned date fixed as 25.3.2021.

Since there appears to be fair chances of amicable settlement between the parties, the matter is referred to Mediation and

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Conciliation Centre of this Court directing the parties to appear there on 21.1.2021 and report therefrom be awaited for the date above fixed i.e. 25.3.2021.

Till then, the petitioner may not be arrested in this case.”

4. In CRM-M-2776-2021, On 21.01.2021, the following order was passed by the Co-ordinate Bench:-

“It is contended that on a petition for pre-arrest bail filed by co-accused Davinder Singh, interim bail has been granted to him by this Court, vide order dated 07.01.2021, copy of which being Annexure P-1A and as regards another co-accused Harjit Singh, who has also approached this Court for grant of anticipatory bail, the matter has been referred to mediation and his arrest has been stayed till then, fixing the next date of hearing before this Court as 25.03.2021, for awaiting report from mediation centre. It is further contended that case of the present petitioner is almost at par with that of Harjit Singh.

Notice of motion.

Mr. J.S. Ghuman, DAG, Punjab, accepts notice on behalf of the respondent-State and Mr. N.K. Manchanda, Advocate has appeared on behalf of the complainant.

Since the matter has already been referred to Mediation & Conciliation Centre of this Court, directing the parties to appear there for today i.e. 21.01.2021, fixing the next date as 25.03.2021 for awaiting report from Mediation & Conciliation Centre of this Court, this petition is also ordered to be put up along with connected matter on 25.03.2021. Till then, the petitioner is not to be arrested in this case.”

5. Learned counsel for the petitioner(s) contend that the petitioners have joined the investigation in pursuance of interim directions and the complaint under Section 138 of Negotiable Instruments Act has already been instituted. Moreover, the matter could not be amicably settled during the course of mediation proceedings. The investigation Agency had presented a cancellation report in the Court.

6. On instructions from ASI Ayub, learned State counsel has not disputed

the aforesaid factual aspects but submits that the cancellation report has been

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rejected and further, investigation has been directed in terms of order dated 12.11.2022. Though, the arrest of Darshan Singh and Harjit Singh were stayed but all the three petitioners have joined the investigation and their custodial interrogation is not required.

7. In view of the aforesaid, sufficient exceptional circumstances are made out to extend the concession of anticipatory bail to the petitioners. The petitions are allowed and it is directed that in the event of arrest, the petitioners be admitted on bail to the satisfaction of the Arresting Officer. This order is further subject to the following conditions:-

- (i) the petitioners shall make themselves available for interrogation as and when required;
- (ii) 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 him from disclosing such facts to the Court or to any police officer; and
- (iii) the petitioners shall not leave India without the previous permission of the Court.

18.04.2023
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No