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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37582-2022
DECIDED ON: 20.04.2023

DEEPAK GOYAL

.....PETITIONER

VERSUS

STATE OF PUNJAB & ANR.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Harinder Pal Singh Ishar, Advocate for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The instant petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in FIR No. 186 dated 12.04.2022 under Sections 406, 420 of IPC, 1860 P.S. Sohana, District S.A.S. Nagar, Mohali..

Learned counsel for the petitioner contends that he is working as a Contractor and was engaged in a construction of project namely Falcon View at Sector 66-A Mohali to be precise Flat No.D-701, wherein he was paid through Google Pay Application an amount of Rs.45,60,000/-. He further contends that the instant FIR has been lodged merely on account of the fact that according to the complainant the work has not been completed, whereas the contention of the contractor/petitioner is that the work was closed after completing major part of it, on 24.12.2021 primarily on the ground that he is suffering losses. It is on that account the instant FIR came to be lodged alleging breach of trust with dishonest and fraudulent intention on the part of the petitioner to part ways with huge amount of Rs.45,60,000/-.

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It is also argued by the counsel for the petitioner that the dispute involved in the instant petition is of civil nature for which suit for specific performance or for damages will be the appropriate remedy instead of initiating criminal proceedings against him which tantamounts to an abuse of process of law.

Learned State counsel has filed custody certificate dated 19.04.2023, which is taken on record showing that the petitioner has undergone 10 months and 21 days of actual custody and is not involved in any other case and from that it can easily be inferred that the petitioner is not a habitual offender. Apart from that the State Counsel is not in a position to controvert the above-said facts and averments made by the counsel for the petitioner.

In the light of the above, this Court is also totally convinced that the dispute prima facie seems to be of civil nature and therefore, no criminal liability can be fastened in the light of the above-said submissions.

However, without commenting on the merits of the case, the petitioner is directed to be released on regular bail on furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

The present petition is, therefore, allowed.

(SANDEEP MOUDGIL)
JUDGE

20.04.2023

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